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Lt. Governor



Margaret G. McHale
Chair

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Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401

(410) 260-3460 Fax: (410) 974-5338

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July 1, 2008

Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: Chesapeake Reach Growth Allocation/Subdivision Concept Plan

Dear Ms. Renshaw:

Thank you for providing information on the above-referenced growth allocation/subdivision concept plan. The applicant is requesting growth allocation to designate 2.98 acres of land from Limited Development Area (LDA) to Intensely Developed Area (IDA). Upon receiving this growth allocation, the applicant proposes to create a nine-lot subdivision. The property is identified as Tax Map 200, Parcel 1785, Lots 15-28 in Block B and Parcel 1783, Lots 12 and 13 in Block C. Total acreage of the property is 2.31 acres (not including Chesapeake Avenue).

Based on the information provided, we have the following preliminary comments on this proposed growth allocation/subdivision project. Please note that additional comments may be provided by Commission staff as necessary during future informal or formal review phases and based on subsequent submittals of this application:

1. The proposed IDA is contiguous with an existing IDA parcel within the Town; furthermore, the parcel is located within an LDA. Therefore, it appears that the adjacency requirements are met for this proposal.
2. The 100-foot Buffer must be expanded to include the nontidal wetland areas that are located contiguous to the 100-foot Buffer. In particular, the Buffer must be expanded on Lot "I." If proposed Lot I cannot be developed without disturbance to the expanded Buffer, it must be reconfigured. We note that movement or reconfiguration of the cul-de-sac would appear to provide a buildable area for proposed Lot I without the need for a variance. The applicant should explore this opportunity.
3. It is unclear if the Buffer has been properly expanded for contiguous hydric or highly erodible soils. If present, the Buffer must be expanded to include the entire extent of any hydric or highly erodible soils located contiguous to the 100-foot Buffer.
4. The applicant will be required to meet 15% afforestation onsite. Presently, no information has

been provided regarding existing or proposed forested areas on the site.

5. A Buffer Management Plan (BMP) will be required to identify any proposed impacts and clearing, as well as mitigation and general management provisions within the Buffer. The BMP should identify species, stocking density, and a planting schedule if appropriate and should be provided at the time of growth allocation submittal.
6. Any impacts to nontidal wetlands will require review and approval from the Maryland Department of the Environment. Appropriate MDE permits and associated mitigation should be included as part of the growth allocation package for review. If onsite mitigation for wetland impacts is proposed within the 100-foot Critical Area Buffer, this information must be disclosed.
7. In addition to #6 above, we note that the Town of St. Michaels includes nontidal wetlands as Habitat Protection Areas (HPAs) within the Town zoning ordinance. Given that it appears possible to reconfigure the existing lots in a manner which avoids impacts to HPAs, it is not likely that the Commission would approve a growth allocation request which proposes to impact an HPA or which includes lots which require variances to develop.
8. The applicant must submit to this office a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. The applicant must address all recommendations from WHS for protection of any species identified.
9. The applicant will be required to meet the 10% Pollutant Removal Requirement onsite. We note that the applicant has submitted preliminary 10% worksheets. Please have the applicant provide specifications on the type of pocket pond proposed for the site, including a plan view, profile, sizing, and a map of the existing and proposed drainage areas on the site.
10. We note that, as of July 1, 2008, the growth allocation guidelines found in Natural Resources Article 8-1808.1(c) will become standards. In addition, the Commission shall consider the following additional factors for a map amendment or refinement involving a new IDA:
 - a. Consistency with the jurisdiction's adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan;
 - b. Whether the development is to be served by a public wastewater system;
 - c. Whether the development is to have an allowed average density of at least 3.5 units per acre, as calculated under §5-7B-03(H) of the State Finance and Procurement Article;
 - d. To have a demonstrable economic benefit to the area
 - e. Consistency with the State and Regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on or off-site;
 - f. Impacts on a Priority Preservation Area, as defined under §2-518 of the Agriculture Article;
 - g. Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and
 - h. Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

Chesapeake Reach Growth Allocation

July 1, 2008

Page 3

It is our understanding that the property will be served by public sewer and wastewater. As part of the formal growth allocation submittal package to the Commission, the Town (applicant) must address each of the above factors.

11. Onsite stormwater management techniques should be considered to reduce the need for a single large treatment practice and to encourage the use of environmentally sensitive design materials.
12. The applicant may want to consider maintaining the project's designation as LDA, since Maryland House Bill 1253 eliminates the individual lot impervious surface limit and only requires a 15% overall lot coverage limit. Please note that the current proposal includes a lot coverage limit of 18.5% for the entire subdivision, which is above the permitted coverage limit in the law. The applicant will need to reduce the total lot coverage for the subdivision to a maximum of 15%.
13. Please clarify who will own the parcel containing the proposed stormwater management pond.

Thank you again for the opportunity to provide preliminary comments on the above-referenced growth allocation and subdivision request. We recommend that the developer work closely with both the Town and Commission staff throughout the growth allocation process. Additional comments may be provided during future informal submittals or during the Commission's formal growth allocation review process. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: SM 374-08

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July 2, 2008

Duncan Stuart
City of Baltimore Planning Commission
Department of Planning
417 E. Fayette Street, 8th Floor
Baltimore, Maryland 21202-3416

Re: CSX Chesapeake Bay Piers

Dear Mr. Stuart:

Thank you for providing information on the above-referenced building permit. The applicant is proposing to enlarge an existing coal storage area. The property is 97.2 acres in size is designated as an Intensely Developed Area (IDA). Total existing impervious surface onsite is 87.7 acres (90.2%); no new impervious surface is proposed onsite. The applicant proposes to remove 10,000 cubic yards of soil and locate it outside the Critical Area, construct a retaining wall along an existing internal access road, and relocate a water spray line. All grading and improvements will take place within an existing railroad right-of-way.

To meet 10% Pollutant Removal Requirements, the applicant is utilizing four existing wet ponds; the applicant is exceeding 10% requirements by 7.2 pounds of Phosphorus per year. Current forest coverage onsite is 12.3 acres (12.7%); the applicant is paying \$57,000 as a fee-in-lieu for the remaining 2.28 acres required to meet 15% afforestation onsite.

Based on the information provided, we have no additional comments on this project.

Thank you for providing the information on this building permit. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in black ink that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: BA 2-07

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July 2, 2008

Ms. Elisa DeFlaux
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

RE: MacLachlan Marsh Creation

Dear Ms. DeFlaux:

I am writing to provide additional comments on the above-referenced marsh creation project located in Talbot County. The applicant proposes to install 492 linear feet of marsh for natural shoreline stabilization. The applicant will install stone sills approximately 25 feet waterward from Mean High Water; the sills will be filled from behind with sand, and tidal marsh vegetation will be planted. Originally, the applicant had requested to re-grade the banks to 5:1 slopes or, where tree preservation is sought, stone will be placed along the shoreline. Individual trees may be removed during the re-grading process. However, the applicant has since revised the plans and requested 3:1 slopes.

Based on the information provided, and based on our conversations with the applicant and with the County, we do not oppose the proposed 3:1 slopes for marsh creation on this site. However, upon reviewing the Buffer Management Plan, we do recommend that the applicant provide mitigation for *all* trees removed on this site at a 1:1 ratio. We recommend that the applicant plant a mix of species that are suitable for this site to meet the requirement. Also, the applicant should continue to coordinate with the Talbot County Planning Office in the creation of this marsh area.

Thank you for the opportunity to provide additional comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly

Natural Resources Planner

cc: April Stehr, Maryland Department of the Environment

TTY for the Deaf

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July 2, 2008

Mr. Jim Stasz
M-NCPPC – Planning Department
Countywide Planning Division
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

**Re: Murphy Conservation Plan
A127**

Dear Mr. Stasz:

Thank you for providing information on the above referenced site plan. The applicant is requesting a variance to construct a single-family dwelling unit. The property is 9.09 acres in size and is designated a Limited Development Area (LDA). The property is currently undeveloped; the applicant proposes to construct a single-family dwelling unit, pervious paver driveway, and garage. Total proposed impervious surface onsite is 0.135 acres (1.4%). Total area disturbed is 1.50 acres. The applicant proposes to clear 1.50 acres of forested area, leaving 4.89 acres of forest coverage onsite (53.7%).

The 2008 changes to the Critical Area law took effect on July 1, 2008. As a component of these changes, all jurisdictions are now required to apply all provisions of the law notwithstanding any provision or lack of a provision in a local law or ordinance.

Based on the information provided, we have the following comments on this conservation plan:


1. Please have the applicant provide the amount of lot coverage attributed to all existing and proposed development onsite. Lot coverage is limited to 15% of the lot area above Mean High Water (MHW). The site plan should show the area above MHW, and all Critical Area development regulations are based on this number.
2. We request that the applicant provide for this office a copy of detailed soil boring information and the manufacturer's specifications in order to determine the

pervious rate of the pavers and the site suitability for their use. Without this additional information, we are unable to determine whether the pavers will provide the intended infiltration benefits onsite.

3. Soil maps reveal that highly erodible soils (Aura) are located onsite. If these soils are located contiguous to the 100-foot or expanded Buffer, then the Buffer must be further expanded to include these areas.
4. Please provide documentation as to methodology used to calculate the expanded Buffer for steep slopes; the Buffer must be must be expanded four feet for every one percent of slope or to the top of the slope, whichever is greater.
5. The applicant must submit to this office a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. The applicant must address all recommendations from WHS for protection of species located on the parcel.
6. GIS mapping reveals that FIDS Habitat is located onsite. Therefore, development restrictions will apply if construction is proposed for this area. A FIDS Mitigation Analysis sheet must be submitted to this office for review and comment.
7. Due to the presence of FIDS habitat onsite, a Habitat Protection Plan must be submitted to this office for review and comment.
8. Mitigation for forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing. The Conservation Plan does not show the amount of proposed clearing; please provide this information.

Thank you for the opportunity to provide comments. Please provide this office a revised Conservation Plan that addresses the above comments. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: PG 367-08

Cecilia Lammers, M-NCPPC – Planning Department

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July 6, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

Re: 471
Telecom Capital island Jubilee Site Plan

Dear Ms. Verdery:

Thank you for providing information on the above-referenced site plan. The applicant proposes to construct a wireless communications tower with five prefabricated shelters for wireless communications FCC licensed operators. The parcel is 4.647 acres in size and is designated Limited Development Area (LDA). Total existing impervious surface onsite is 11,736 square feet (5.7%); the applicant proposes to increase impervious surface on site by 6,539 square feet to 18,275 square feet (9.0%).

Based on the information provided, we have the following comments on this project:

1. Please provide the amount of forest coverage located onsite. All parcels must meet the 15% afforestation requirement within the Critical Area.
2. Mitigation for any forest clearing onsite must be provided at a 1:1 ratio, provided that clearing is less than 20% of the site. However, we recommend development the entire development footprint outside of the existing forest, if possible.
3. It appears that the applicant could avoid further impacts to the existing forest cover by locating the temporary construction entrance so that it meets the existing gravel driveway to the south or east of the construction site. Please have the applicant clarify the necessity to construct the temporary stabilized construction entrance through existing forest.
4. The site plan reveals that Keyport soils are located onsite. We recommend that all development activities avoid impacting these areas, if possible.

Thank you for the opportunity to provide comments on this site plan application. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

Nick Kelly

Nick Kelly

Natural Resource Planner

cc: TC 358-08

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July 6, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

Re: 471
Telecom Capital Schlag Property Site Plan

Dear Ms. Verdery:

Thank you for providing information on the above-referenced site plan. The applicant proposes to construct a wireless communications tower with five prefabricated shelters for wireless communications FCC licensed operators. The parcel is 78.991 acres in size, with 23.09 acres located within the Critical Area and designated Resource Conservation Area (RCA). Total existing impervious surface onsite within the Critical Area is 25,157 square feet (2.5%); the applicant proposes to increase impervious surface on site by 11,180 square feet to 36,337 square feet (3.6%).

Based on the information provided, we have the following comments on this project:

1. Please provide the amount of forest coverage located onsite. All parcels must meet the 15% afforestation requirement within the Critical Area. Mitigation for any forest clearing onsite must be provided at a 1:1 ratio, provided that clearing is less than 20% of the site.
2. We recommend replacing the proposed planting of Japanese Cryptomeria with the native eastern red cedar tree.
3. The site plan reveals that Keyport, Othello, and Elkton soils are located onsite. We recommend that all development activities avoid impacting these areas, if possible.

Thank you for the opportunity to provide comments on this site plan application. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

Nick Kelly

Natural Resource Planner

cc: TC 357-08

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July 7, 2008

Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway
Centreville, MD 21617-0000

Re: Chestertown Ordinance Review and Update

Dear Ms. Skilling:

We have received your request for processing the above referenced update to the Town of Chestertown's Critical Area Ordinance. Based on our review of the materials submitted, Commission staff is unable to accept the Town's request for the processing of this comprehensive review update. Specifically, it appears that all of the information necessary to evaluate the request has not been included in the submittal.

In order for the Commission to process the Town's request for growth allocation, the following additional information is needed:

1. An updated Critical Area Map, including the changes in the Critical Area designation for Heron Point and Stepney Manor, which have both been granted growth allocation.
2. An updated Habitat Protection Area Map for the Town.

Once this additional information is received, Commission staff will notify you regarding whether the submittal is complete.

Thank you for providing us the opportunity to review your comprehensive review update request. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner

cc: Margo Bailey, Mayor, Town of Chestertown
Bill Ingersoll, Town of Chestertown

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July 8, 2008

Paul Nevenglosky
Moffat & Nichol
2700 Lighthouse Point East, Suite 501
Baltimore, MD 21224

Re: Maryland Port Administration Mitigation

Dear Mr. Nevenglosky:

Thank you for submitting pollutant removal credit calculations that will be used towards the Maryland Port Administration's (MPA) Institutional Plan pollutant removal requirements. Upon reviewing the provided material, Commission staff has determined that the pollutant removal credits from the following projects may be added to the MPA's Critical Area Scoreboard:

1. Barclay Elementary School Greening Project
2. Curtis Bay Elementary School Greening Project
3. Hamilton Elementary/Middle School Greening Project
4. Windsor Hills Elementary School Greening Project

Thank you again for allowing us to review the provided information in regards to these school greening projects. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner

cc: Mike Bozman, MPA
LeeAnne Chandler, CAC

Martin O'Malley
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Executive Director

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July 8, 2008

Mr. Blaine Smith
Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

**Re: Kalivas Building Permit
15113**

Dear Mr. Smith:

Thank you for providing information on the above-referenced building permit. The applicant is proposing to construct a garage with room above and a parking pad. The parcel is 6,000 square feet in size and is located in zone designated R-1; the setback for this parcel is 15 feet. Current impervious surface onsite is 2,158 square feet (35.9%); upon completion of this project, total impervious surface will be 2,884 square feet (48.1%). To meet 100-foot Buffer and afforestation requirements, the applicant is required to provide 640 feet of landscaping; the applicant is providing 2,500 square feet of planting in the form of one large tree, three small trees, 20 large shrubs and 10 small shrubs.

The applicant is meeting 10% requirements onsite by limiting the amount of impervious surface onsite to less than 50%, providing a rain garden, and draining new impervious surfaces towards pervious surface.

Based on the information provided, and given that all new additions are located further from Mean High Water (MHW) than the existing house, we have only the following comment on this project:

- The applicant states that there is no room to plant vegetation within the setback area, as there is already an existing deck within the setback. From the information provided, it is unclear that the setback area is unable to be planted. Please have the applicant providing a full site plan that shows the location of the deck.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly". The signature is written in dark ink and is positioned above the printed name.

Nick Kelly, Ph.D
Natural Resource Planner
cc: OC 378-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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July 8, 2008

Mr. Blaine Smith
Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

**Re: Linde Building Permit
15184**

Dear Mr. Smith:

Thank you for providing information on the above-referenced building permit. The applicant is proposing to replace an existing pool. The parcel is 5,000 square feet in size and is located in zone designated R-1; the setback for this parcel is 15 feet. Current impervious surface onsite is 235 square feet (4.7%); upon completion of this project, total impervious surface will be 1,192 square feet (23.8%). The applicant is providing 1,050 square feet of planting in the form of three large trees, two large shrubs and two small shrubs.

The applicant is meeting 10% requirements onsite by providing an infiltration trench onsite and paying a fee-in-lieu of \$408.

Based on the information provided, we have the following comment on this project:

1. Within the 100-foot Buffer area, the applicant proposes to replace an existing pool with a larger pool. The Town of Ocean City Atlantic Coastal Bays Critical Area Program §30-554(d)(1) states that, "New development, including accessory structures, shall minimize the extent of intrusion into the Buffer..." Upon reviewing the site plan, we have concerns that the construction of a new, larger pool does not minimize Buffer intrusion.

The Critical Area law was created to protect the valuable, fragile, and sensitive areas along the shoreline from human activity. This includes minimizing adverse impacts to water quality and habitat as well as reducing human activity in

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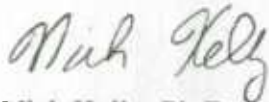


shoreline areas by limiting the development of non-water dependent structures or impervious surfaces, particularly within the 100-foot Buffer. With the Critical Area law in mind, we recommend that the applicant be permitted to replace the existing pool in-kind, or, if possible, to reduce the size of the pool and locate it further from Mean High Water (MHW) than the existing pool.

2. To ensure that the applicant is providing the correct amount of mitigation for impacts to the 100-foot Buffer, please have the applicant complete the mitigation worksheet for detached single-family dwellings.
3. Please have the applicant provide the botanical name and common name of each tree and shrub to be planted onsite. Landscaping shall be performed using native vegetation.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly, Ph.D
Natural Resource Planner
cc: OC 384-08

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July 8, 2008

Mr. Blaine Smith
Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

**Re: Topsail Townhouse Rehab
15175**

Dear Mr. Smith:

Thank you for providing information on the above-referenced building permit. The applicant is proposing to construct a pervious deck for a three-unit townhouse. The parcel is located in zone designated R-2; the setback for this parcel is 10 feet. The applicant has planted three shrubs (Pink Azalea) onsite.

The applicant is meeting 10% requirements onsite by constructing the deck as pervious in nature.

Based on the information provided, we have the following comment on this project:

1. Within the 100-foot Buffer area, the applicant proposes to install an additional 450 square feet of pervious decking. The Town of Ocean City Atlantic Coastal Bays Critical Area Program §30-554(d)(1) states that, "New development, including accessory structures, shall minimize the extent of intrusion into the Buffer..." While we understand that the Town of Ocean City Atlantic Coastal Bays Critical Area Program allows pervious decks in the setback, it appears that the construction of an additional 450 square feet of decking does not minimize Buffer intrusion, particularly since *each* townhouse currently enjoys the use of an existing deck. In addition, the deck encroaches closer to Mean High Water (0 feet) than the existing decks (10 feet).

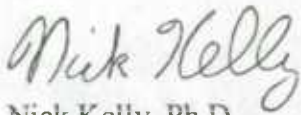
The Critical Area law was created to protect the valuable, fragile, and sensitive areas along the shoreline from human activity. This includes minimizing adverse impacts to water quality and habitat as well as reducing human activity in shoreline areas by limiting the development of non-water dependent structures or impervious surfaces, particularly within the 100-foot Buffer. The setbacks in the Ocean City Critical Area Program are

intended to help minimize those adverse impacts. By constructing a deck in the setback area, there is no opportunity to provide any water quality or habitat benefits. With the Critical Area law in mind, Commission staff recommends that the Town not permit the new decking, particularly considering that *each* townhouse unit already enjoys the use of an existing deck.

2. Please have the applicant provide the total acreage for the site.
3. Please have the applicant provide the amount of impervious surface located onsite.
4. Please have the applicant provide the dimensions of the existing decking located onsite.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above along with a revised site plan. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly, Ph.D
Natural Resource Planner
cc: OC 377-08

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Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Finizo Line Revision
L1078**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced lot line revision. Revised Tax Parcel 30 is currently 0.76 acres in size and is designated Limited Development Area (LDA) and a Buffer Management Area (BMA). Revised Tax Parcel 43 is currently 1.33 acres and is designated LDA. Upon completion of the line revision, Revised Tax Parcel 30 will be 0.99 acres, while Revised Tax Parcel 43 will be 1.10 acres. All development rights have been exhausted on each parcel. Current impervious surface for Tax Parcel 30 is 4,122.3 square feet (9.5%) and for Tax Parcel 43 is also 4,052.9 square feet (8.5%).

Based on the information provided, we have the following comments on this proposed subdivision:

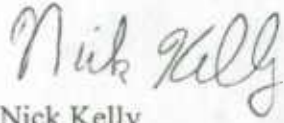
1. A prior site plan submitted to this office in September 2005 did not reveal lot lines for this parcel. Please have the applicant provide information on when this land was subdivided, and if Critical Area review was performed for this subdivision or if a prior lot line revision has been recorded for this property.
2. Review of the Talbot County soil maps reveals that most of the lot is covered in hydric or highly erodible soils (Keyport). Since these soils are located contiguous to the 100-foot Buffer, the Buffer must be expanded to include these areas.
3. Please provide the amount of forest cover onsite for each parcel. Each parcel must meet the 15% afforestation requirement onsite.
4. The site plan states that private tidal wetlands exist onsite. Please provide the amount of tidal wetlands located onsite, and please verify that no State-owned tidal wetlands exist on the parcels.

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Thank you for the opportunity to provide comments on this lot line revision. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly". The ink is dark and the signature is fluid.

Nick Kelly

Natural Resource Planner

cc: TC 93-05

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

July 8, 2008

Ms. Florence Ball
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

RE: Mullaney Pier and Walkway.

Dear Ms. Ball:

Thank you for providing information on the above-referenced pier permit for review. In Trappe, along Bruceville Road, the applicant proposes to remove an existing pier and platform and install a new 750-foot long by 3-foot wide ramp and walkway across a tidal marsh, and to construct a 40-foot long by variable width timber pier with a 10-foot by 20-foot "L," two mooring piles, one boat lift, and one jet ski lift. All activities will occur within a maximum of 32 feet channelward of the Mean High Water line (MHW).

Based on the information provided, we do have the following comments:

1. Any disturbance to the Buffer shall be mitigated at a 2:1 ratio.
2. We recommend fully replanting the Buffer area in the location of the original pier.
3. Please submit to this office a copy of the approved Federal and State permits for this project.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resources Planner

cc: Elisa DeFlaux, Talbot County Planning and Zoning
Stan Causey, Causey Consulting

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 8, 2008

Gail Webb Owings
Director
Department of Planning, Housing and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Kent County Critical Area Program Text Amendment – Marine District Permitted Uses

Dear Ms. Owings:

We have received your request for the processing of the above referenced text amendment to the Kent County Critical Area Program. The text change proposes to define and allow as principal permitted use in the Marine District private residence and destination clubs; all properties zoned Marine are designated as an Intensely Developed Area (IDA). This letter serves to notify the Town that Commission staff has accepted the materials forwarded by the Town as a complete submittal. The Chair will make an amendment or refinement determination within thirty days of the date of this letter, and Commission staff will notify you of her determination and the procedures for review by the Critical Area Commission.

Thank you for providing us with the opportunity to review your text amendment request. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: file

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 8, 2008

Ms. April Stehr
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard, Suite 430
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Talbot County

Dear Ms. Stehr:

I am writing to provide comments on the following project located in Talbot County:

200860791/08-WL-1052 James & Cecilia Koons

In Trappe, along the Choptank River, the applicant has applied to emplace 1,104 feet of riprap revetment within a maximum of eight feet channelward of Mean High Water (MHW) and to emplace three, four-foot wide by two-foot long stone sills emplaced within a maximum of 10 feet channelward of MHW. The purpose of this project is for shoreline erosion control.

Based on a July 7, 2008 visit to the property with you, Elisa DeFlaux of Talbot County Planning and Zoning, Sean Callahan of Lane Engineering, and David L. Nabb of ILEX Construction and Development, we understand that the applicant proposes to place wetland mitigation within the 100-foot Buffer. Consequently, we have the following comments on this project:

1. Mitigation for any disturbance to the existing 100-foot Buffer associated with the wetland creation project must be provided at a 1:1 ratio. The mitigation plantings may be located within the new area of Buffer.
2. A new 100-foot Buffer must be placed based on the new areas of wetland creation. In addition, the new Buffer must be established. No new or existing structures may be located within this 100-foot Buffer area. It is our understanding that the applicant will ensure that the existing roadway is not located within the 100-foot Buffer.
3. The applicant should continue to coordinate all activities with the Talbot County Planning Office.

200861319/08-WL-1192: Lambertson Family LTD Partnership

In Bozman, along Leadman Creek, the applicant has applied to: emplace 1,245 square feet of high profile stone revetment within a maximum of eight feet channelward of MHW; emplace 830 feet of low profile stone revetment within a maximum of four feet channelward of MHW; emplace 320 feet of low profile stone will within a maximum of 3 feet channelward of an eroding marsh edge and MHW; and construct six, 10-foot wide by 25-foot long stone groins extending a maximum of 25 feet channelward of MHW. The purpose of this project is shore erosion control.

The Talbot County Critical Area Program recommends nonstructural shore protection measures whenever practical. Therefore, we recommend nonstructural measures in lieu of the proposed replacement bulkhead and riprap revetment. Nevertheless, if MDE determines that structural means are necessary, then this office will defer to your determination. Any disturbance to the 100-foot Buffer shall be mitigated at a 1:1 ratio, and the applicant should coordinate all activities with the Talbot County Planning Office.

In addition, the proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply. Please have the applicant contact Lori Byrne of the Maryland Department of Natural Resources Wildlife and Heritage Service (410-260-8573) to determine what restrictions will apply to this site.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resources Planner
cc: Elisa DeFlaux, Talbot County Planning and Zoning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 14, 2008

Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Bissell Boat Building Variance
A125**

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to replace and expand an existing boat building located within the 100-foot Buffer. The property is 0.76 acres in size and is designated Limited Development Area (LDA). The applicant proposes to expand the existing boat building and to remove an existing gravel drive, gravel area, and sheds; the areas where impervious surface is removed will be planted with grass. Total existing lot coverage onsite is 14,208.1 square feet (42.7%). If the variance is granted, the applicant will add 2,996 square feet of lot coverage and remove 13,087 square feet of lot coverage; in total, the amount of lot coverage onsite will decrease to 4,116 square feet (12.3%). The proposed boat building expansion will not encroach closer to Mean High Water (MHW) than the existing footprint of the building (24 feet).

Based on the information provided, it is unclear whether the existing boat building will be razed and replaced, or whether it will be renovated and expanded. If the applicant is razing the boat house and replacing it, the applicant should be required to relocate the boathouse, as it appears that there is ample room to place this building outside the 100-foot Buffer. In addition, we recommend that the areas of removed lot coverage within the 100-foot Buffer be replanted with native plants and vegetation. However, if the applicant plans to renovate and expand the existing boat building, then Commission staff would recommend mitigation for any disturbance to the Buffer to be performed at a 2:1 ratio, and that the applicant replant the areas where lot coverage is removed with native plants and vegetation instead of grass.

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450



Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 339-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 14, 2008

Mr. Anthony DiGiacomo, AICP
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

Re: Wapiti Acres, Concept Plat
TM 46, Grid 8, Parcel 27
Turkey Point Road

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above referenced subdivision concept plat. The applicant is seeking to develop a 78-lot subdivision. The entire parcel is 433 acres of which 189.1 acres are in the Critical Area and designated Resource Conservation Area (RCA). The Critical Area portion of the site is currently developed with existing structures and will be designated as Common Open Space.

Based on the information provided, I have the following comments regarding the proposal:

1. Please have the applicant provide the amount of forest cover located onsite within the Critical Area.
2. It is unclear how streams were delineated onsite. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Commission". Further, as of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, unless and until the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only possible methodology under the law for the identification of streams. A Jurisdiction Determination is not an appropriate substitute for an on-site inspection. Please have the applicant provide information on how streams were delineated onsite to ensure that this requirement has been met.

3. The site plan should also include the 110-foot Buffer per Cecil County Zoning Code Section 196. The Buffer must be field delineated from the edge of all tidal water, tidal wetlands, and tributary streams. Additionally, the Buffer must be expanded four (4) feet for every percent of slope over fifteen (15) percent for contiguous and adjacent slopes and to the upland limit of adjacent hydric soils or highly erodible soils.
4. A 25-foot buffer must be drawn from any nontidal wetlands if they are present.
5. Given the presence of the Bald Eagle's Nest, the applicant will need to provide plat notes indicating the development restrictions for each management zone.
6. Please clarify the role and use of the existing buildings in the Critical Area.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: CE 710-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 14, 2008

Mr. Anthony DiGiacomo, AICP
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

Re: Knight's Court Subdivision

Dear Mr. Di Giacomo:

Thank you for providing information regarding the above referenced subdivision plat. The applicant is seeking to develop a 45-lot subdivision. The entire parcel is 297.95 acres; 35.8 acres are located in the Critical Area and designated Resource Conservation Area (RCA). The Critical Area portion of the site is currently undeveloped.

Based on the information provided, I have the following comments regarding the proposal:

- The 110-foot Buffer must be expanded for nontidal wetlands.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: CE 701-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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July 16, 2008

Ms. Jeanne Minner
Elkton Planning Department
Elkton Municipal Building
P.O. Box 157
Elkton, Maryland 21922-0157

**Re: Arby's Restaurant
Site Plan**

Dear Ms. Thomas:

Thank you for submitting information on the above referenced site plan for review and comment. The parcel is 1.26 acres in size and is designated Intensely Developed Area (IDA). The applicant proposes to create a restaurant, sidewalk, and parking area. Total lot coverage onsite will increase from 0.32 acres to 0.643 acres. The applicant will meet 10% phosphorus removal requirements on site by providing an infiltration basin.

Based on the information provided, we have the following comments:

1. The applicant has incorrectly completed the 10% pollutant removal worksheets. The applicant has stated that 2.879 pounds of phosphorus per year is required for removal; however, only 0.798 pounds per year is required.
2. Please have the applicant provide detailed information on the size and location of the proposed infiltration trench, including a schematic, to ensure that this best management practice will provide 65% phosphorus removal efficiency.

Thank you for the opportunity to provide comments. If you have any questions or concerns please contact me at (410) 260-3475.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: EL 392-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 17, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

Re: L1072
Heyman Line Revision

Dear Ms. Verdery:

Thank you for providing information on the above referenced revision plat. The applicant is requesting a minor lot line revision between five parcels (Parcel A, Parcel B, Parcel 1, Parcel 2, Parcel 3). All parcels are located in a Limited Development Area (LDA). Parcel 1 is 7,798 square feet in size and is currently developed with a frame house, garage, patio walkway, and accessory structure. Parcel 2 is 290 square feet in size; this parcel will be abandoned and become part of Parcel 1. Parcel 3 is 10,647 square feet in size and is currently developed with a driveway. Parcel A is 2,629 square feet in size; this parcel will be abandoned to become part of Parcel 3. Parcel B is 894 square feet and will also be abandoned to become part of Parcel 3. Upon completion of the line revision, Parcel 1 will be 13,397 square feet in size, and Parcel 3 will be 8,861 square feet. Total lot coverage on Parcel 1 is 3,342 square feet (24.99%), while the lot coverage amount for Parcel 3 is 0 square feet (0.0%).

Based on the information provided, we have the following comments on this project:

1. Talbot County Soil Maps reveal that the property is located in hydric or highly erodible soils (Mattapex). In the future, any proposed agricultural uses and proposed structures should be constructed to minimize impacts to these soils.
2. Please have the applicant provide the amount of forest coverage for each parcel. Each parcel must have 15% forest cover.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: TC 34-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 17, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Walker Subdivision
TM 41, P 351 & 385**

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above-referenced subdivision. The applicant proposes to create a three-lot subdivision over two parcels. The site is 11.54 acres in size, with 1.5261 acres located in the Critical Area and designated Resource Conservation Area (RCA).

Based on the information provided, we have the following comments:

1. Mitigation for forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing.
2. GIS maps reveal that FIDS Habitat is located onsite. While it is our understanding that no development or clearing is proposed within the FIDS habitat area at this time, we suggest that the applicant place this area in an easement to avoid any future development to this habitat.
3. Any future development of the RCA portion of this site must comply with local and state Critical Area Programs.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please contact me at 410-260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: CE 373-08

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



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July 17, 2008

Mr. Anthony DiGiacomo, AICP
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

Re: Fieldstone Site Plan
Tax Map 52, Parcel 455

Dear Mr. Di Giacomo:

Thank you for providing information regarding the above referenced subdivision plat. The applicant is seeking to develop a 6-lot subdivision. The entire parcel is 57.19 acres; 6.8 acres are located in the Critical Area and designated Resource Conservation Area (RCA). Only portions of Lot 1 are located in the Critical Area.

Based on the information provided, I have the following comments regarding this project:

1. The 110-foot Buffer must be expanded for steep slopes. Applicants must extend the Buffer for steep slopes according to the Cecil County Zoning Ordinance §196.2.b. and COMAR 27.01.09.01C(7), which states that "...In the case of contiguous slopes 15 percent or greater, the Buffer shall be expanded four feet for every one percent of slope, or the top of the slope, which is greater in extent." In order to verify its accuracy, please have the applicant provide samples of the methodology used on this site to calculate the expanded Buffer.
2. The 110-foot Buffer must be expanded for hydric soils located onsite.
3. GIS data has determined that FIDS Habitat is located onsite. While it is our understanding that no development or clearing is proposed within the FIDS habitat area at this time, we suggest that the applicant place this area in an easement to avoid any future development to this sensitive habitat area. At a minimum, please add a note to the plat indicating the presence of FIDS habitat and the requirement for any disturbance of this area to comply with Cecil County development restrictions.
4. Please have the applicant provide the amount of forest coverage onsite located within the Critical Area. The applicant must provide 15% forest coverage within the Critical Area portion of the site.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: CE 554-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 17, 2008

Michael Bozman
Permits & Special Projects Manager
Maryland Port Administration
Engineering Department
2310 Broening Highway
Baltimore, MD 21224

Re: Mercedes-Benz (MBUSA) – Building Addition

Dear Mr. Bozman:

Thank you for providing information on the above-referenced project. The applicant is proposing to make modifications to a previously submitted plan for a building addition project that was approved by the Critical Area Commission on September 6, 2006. Originally, the applicant had proposed to construct a 100,000 square foot building addition on the south side of an existing Vehicle Processing Center at the Fairfield Marine Terminal; the applicant has revised the plans, reducing the size to 25,000 square feet and constructing it on the north side of the existing building. No impacts to the 100-foot Buffer or clearing is proposed, and the applicant is meeting the 10% pollutant removal requirement on site.

Based on the information provided, we have no additional comments on this modified building addition plan. However, the applicant does request that the excess pollutant removal reduction (0.14 lbs/year) be banked into the Maryland Port Administration (MPA) Institutional Management Plan. At this time, we cannot permit this amount to be added to MPA's mitigation bank without full Commission review and approval. Commission staff is willing to assist the applicant through this review process.

Thank you again for providing information in regards to this project. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: 41-06
Jesse M. Lindsay, WBCM
LeeAnne Chandler, CAC

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Martin O'Malley
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Lt. Governor



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July 17, 2008

Mr. Blaine Smith
Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

**Re: Broad Marsh Townhomes Site Plan
05-18100027**

Dear Mr. Smith:

Thank you for providing information on the above referenced site plan. The applicant is proposing to revise Phases 11, 12, and 15 of the original submission to include the construction of a swimming pool and community building onsite. Critical Area issues include stormwater management, pollutant removal, and afforestation.

The lot is 3.96 acres in size. Currently, the entire lot is developed with mobile homes, decks, and gravel areas. The applicant proposes to construct townhomes, condominiums, a community house, a pool, and a boardwalk. Current lot coverage onsite is 94,460 square feet (54.8%); upon completion of this project, total lot coverage will be 105,167 square feet (61.0%). To meet Buffer mitigation and afforestation requirements, the applicant is required to provide 45,906 square feet of landscaping; the applicant is providing 89,425 square feet of plantings in the form of 86 large trees, 146 small trees, 573 large shrubs, and 293 small shrubs. The applicant is using pervious pavers and an infiltration trench onsite to address 10% pollutant removal.

Based on the information provided, we have the following comment on this project:

1. The applicant appears to be 0.02 pounds/year of Phosphorus short of meeting the 10% pollutant removal requirement onsite. The applicant must meet this requirement onsite or provide a fee-in-lieu. Please have the applicant clarify this matter.
2. The applicant proposes to plant maiden grass, dwarf-winged euonymus, crimson pigmy barberry, and Japanese euonymus for mitigation purposes. All of these

species are listed as invasive to the Mid-Atlantic natural areas. Commission staff recommends that the applicant plant switchgrass, red chokeberry, spicebush, and Virginia sweetspire, respectively, in lieu of these species.

3. The applicant shows a five-foot parallel walkway within the 25-foot setback. Section IV Buffer and Buffer Management Area, subsection (d)(4) of the Ocean City Critical Area Program addresses pervious walkways in the Buffer. This section is meant to allow walkways attached to a primary structure, running perpendicular to the shoreline through the Buffer. We note that Commission Staff met with Town Staff in the summer of 2005 to discuss, among other issues, the possibility of revising the Town's Critical Area Program to include a comprehensive Bay-side boardwalk element; we continue to discuss this issue with Town staff. Absent provisions for Bay-side boardwalks, or preferably, a comprehensive boardwalk element, piecemeal boardwalks on individual properties are not authorized under the Town's Critical Area Program

It is our understanding that the boardwalk will be proposed under Phase 14 of this project, and that a permit will not be issued until the Town and Commission resolve the issue of parallel walkways within the setback. We remain available to assist the Town in designing appropriate provisions for inclusion in the Town's Program.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,



Nick Kelly, Ph.D

Natural Resource Planner

cc: OC 674-05

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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July 18, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Re: KST, LLC Subdivision
TM 36, Parcel 121

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above-referenced subdivision. The applicant proposes to create a one-lot subdivision. The parcel is 6.132 acres in size and is designated Limited Development Area. The parcel is currently developed with a existing dwelling unit, driveway, building, parking area, and accessory structures. Total lot coverage onsite is currently 0.4 acres (6.5%). Total forest coverage onsite is 0.926 acres (15.1%).

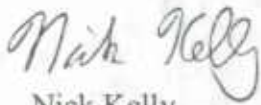
Based on the information provided, we have the following comments:

1. If any forest clearing is proposed onsite, mitigation shall be provided at a 1:1 ratio, provided that less than 20% of the site is cleared.
2. GIS maps reveal that FIDS Habitat is located onsite. While it is out understanding that no development or clearing is proposed within the FIDS habitat area at this time, we suggest that the applicant place this area in an easement to avoid any future development to this habitat. At a minimum, a note should be added to the plat restrictions clearing

We note the County is currently under sanction by the Critical Area Commission regarding the Habitat Protection Area provision of the Zoning Ordinance. Consequently, the Planning Commission may not approve any final subdivision plat in a Habitat Protection Area. Further, we may have additional comments to provide once the necessary changes to the Zoning Ordinance have been made.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly

Natural Resource Planner

cc: CE 373-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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July 18, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Shortall Farm Subdivision
M1104**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced subdivision. The applicant is proposing to create a minor 3-lot subdivision. The parcel is 144.215 acres in size, with 94.292 acres located in the Critical Area and designated as Resource Conservation Area (RCA). Lot 1 will be 127.32 acres in size (81.832 located in the Critical Area), Lot 2 will be 7.070 acres (5.983 located in the Critical Area), and Lot 3 will be 9.773 acres in size (6.477 acres in the Critical Area). There is currently no forest coverage located onsite.

Based on the information provided, we have the following comments on this proposed subdivision:

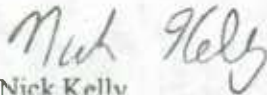
1. A total of four development rights are permitted on this parcel; upon completion of this subdivision, only one development will remain.
2. The 100-foot Buffer must be expanded for both hydric and highly erodible soils located contiguous to the 100-foot Buffer.
3. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland.
4. It appears that the sewage disposal area (SDA) for Lot 2 is located within the expanded Buffer. The applicant must relocate the SDA outside of the expanded Buffer.
5. The applicant proposes to construct the access to Lot 2 through hydric soils. It appears that the applicant could reconfigure this access point and avoid any impacts to these soils.

6. The applicant must plant 14.140 acres of forested vegetation in order to meet the Critical Area 15% afforestation requirement.
7. GIS layering reveals that the property is entirely located within a sensitive species area. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite.
8. If it is verified by WHS that a sensitive species exists onsite, a Habitat Protection Plan must be submitted to this office for review and comment, as required in §190-93 E(8)(d) of the Talbot County code.
9. The Habitat Protection Plan, environmental site constraints, afforestation requirements, mitigation, Buffer expansion, and all other environmental issues mentioned in this letter must be resolved prior to preliminary plat approval.
10. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Calvert County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: TC 391-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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July 23, 2008

Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway
Centreville, MD 21617-0000

Re: Town of Charlestown Growth Allocation

Dear Mr. Burden:

Thank you for submitting information on the above-referenced growth allocation request, regarding the use of 45.2 acres of growth allocation to change the Critical Area designation of sixty-six properties from Limited Development Area (LDA) to Intensely Developed Area (IDA). Commission staff has accepted the materials forwarded by the Town as a complete submittal. The Chair will make an amendment or refinement determination within thirty days of the date of this letter, and Commission staff will notify you of her determination and the procedures for review by the Critical Area Commission.

Thank you for providing us with the opportunity to review your growth allocation request. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner

cc: Henry Burden, Town of Charlestown
Eric S. Sennstrom, Cecil County

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 23, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Penn-Rail, LLC Subdivision
M1040, TM56 P10**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced subdivision. The applicant is proposing to create a major 6-lot subdivision and private road. The parcel is 285.5 acres in size, with 122.538 acres located in the Critical Area and designated as Resource Conservation Area (RCA). Total forest coverage onsite within the Critical Area is 78.581 acres (64.1%); the applicant proposes to clear 2.612 acres of forest.

Based on the information provided, we have the following comments on this proposed subdivision:

1. Due to the presence of 2.8 acres of State-owned tidal wetlands on the parcel, a total of five development rights are permitted within the Critical Area; the applicant is proposing to exhaust all five development rights.
2. The 100-foot Buffer must be expanded for both hydric and highly erodible soils located contiguous to the 100-foot Buffer.
3. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland.

4. It appears that the building envelopes and driveways for Lots 1 and 2 are located within the expanded Buffer for hydric soils. The applicant must relocate the building envelopes and driveways outside of the expanded Buffer.
5. Please have the applicant show the location of the building envelopes for Lots 3, 4, and 5 on the site plan.
6. It appears that the sewage disposal areas (SDA) for all five lots are located within the expanded Buffer for hydric soils. The applicant must relocate the SDA outside of the expanded Buffer.
7. Mitigation for forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing.
8. A 2005 letter from the Maryland Department of Natural Resources Wildlife and Heritage Division (WHS) reveals that this property is located within Delmarva Fox Squirrel habitat. The applicant must fully address all recommendations for protection of this area by the WHS. In addition, coordination with the United States Fish and Wildlife Service (FWS) is needed. Please forward a copy of the applicant's communication with FWS to this office, once it is available.
9. The property is located within Forest Interior Dwelling Bird (FIDS) habitat. Therefore, development restrictions will apply if construction is proposed for this area. A FIDS Mitigation Analysis sheet must be submitted to this office for review and comment.
10. The applicant must receive an updated letter from the WHS to re-evaluate the property for any rare, threatened, or endangered species location onsite. The current letter is older than three years.
11. Due to the presences of Delmarva Fox Squirrel and FIDS habitat onsite, a Habitat Protection Plan must be submitted to this office for review and comment, as required in §190-93 E(8)(d) of the Talbot County code.
12. The Habitat Protection Plan, environmental site constraints, forest mitigation, Buffer expansion, and all other environmental issues mentioned in this letter must be resolved prior to preliminary plat approval.
13. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Calvert County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations,

please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 391-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

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July 23, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Rehobeth Farm, LLC
M1105**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced subdivision. The applicant is proposing to create a major 8-lot subdivision. The parcel is 204.634 acres in size, with 197.686 acres located in the Critical Area and designated as Resource Conservation Area (RCA). Currently the lot is developed with a manor house and accessory residential structure. Total forest cover onsite within the Critical Area is 35.609 acres (18.01%); the applicant proposes to clear 1.148 acres of forest cover.

Based on the information provided, we have the following comments on this proposed subdivision:

1. A total of nine development rights are permitted on this parcel. The applicant claims that only one development right has been utilized onsite. However, it appears that the applicant has utilized two development rights, as an accessory residential structure exists that does not conform to the State laws for accessory dwelling units, found in Natural Resource Code §8-1808.1(e). Consequently, only seven development rights remain. The applicant must revise the proposed subdivision request to account for this additional utilized development right.
2. Please have the applicant identify and label the nature of all existing structures on the site plan.
3. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by

October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:

- a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
- b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such

4. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regard to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland.
5. The 100-foot Buffer must be expanded for both hydric and highly erodible soils located contiguous to the 100-foot Buffer. Currently, this has not been done.
6. The applicant must fully forest both the 100-foot and Expanded Buffer.
7. The proposed sewage disposal area for Lot 5 should be located outside of the Fallsington soils.
8. The applicant proposes to construct a private road easement through a non-tidal wetland near Lot 2 and through the expanded Buffer to provide access to Lot 9. A variance would be required for each instance. New lots created after the County's Critical Area Program adoption date must fully comply with all of the County's Critical Area regulations. Therefore, the applicant must reconfigure the access road and the lot lines to avoid the need for any variances.
9. Please have the applicant provide the amount of existing lot coverage located onsite.
10. The Maryland Department of Natural Resources wetlands maps indicate an area of non-tidal wetlands located near the Fallsington soils on Lots 1 and 2. A wetland delineation may be required to determine if this feature exists onsite.
11. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite.
12. The site plan states that FIDS Habitat is located onsite. Therefore, development restrictions will apply for any construction proposed in this area. A FIDS Mitigation Analysis sheet must be submitted to this office for review and comment.

13. Due to the presence of FIDS habitat onsite, a Habitat Protection Plan (HPP) must be submitted to this office for review and comment, as required in §190-93 E(8)(d) of the Talbot County code. This HPP must be received and approved prior to preliminary plat approval.
14. Mitigation for forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing.
15. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: TC 390-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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July 23, 2008

Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway
Centreville, MD 21617-0000

Re: Perryville Trail Connection

Dear Ms. Skilling:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The Town is proposing a trail connection to connect an existing trail to a proposed transient/water taxi pier. The project will consist of an eight-foot wide pedestrian walkway that is ADA accessible. The property is 2,400 square feet in size and is designated Intensely Developed Area (IDA). After reviewing the consistency report, this office agrees that the project is generally consistent with the Town of Perryville Critical Area Program for the reasons outlined below.

1. No forests, woodlands, or trees will be removed, and no clearing will occur.
2. No impervious surface exists onsite; the applicant proposes to emplace 2,400 square feet of impervious surface.
3. The applicant will meet 10% pollutant removal requirements onsite.
4. Stormwater management will be addressed through plantings.
5. The project is water dependent, as it provides access to a pier.
6. No impacts to the 110-foot Buffer are proposed.
7. No Habitat Protection Areas will be impacted.
8. No tidal or non-tidal wetland impacts are proposed.

In addition, we have the following comment for this project:

- To meet 10% requirements onsite, the applicant will be required to plant 19 trees onsite. We have attached a planting agreement form to this letter to be completed and returned to this office for review and approval.

Thank you again for providing information on this consistency report application. If you have any questions, please call me at (410) 260-3483.

Sincerely,


Nick Kelly

Natural Resource Planner

cc: PE 319-08

Enclosure

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 23, 2008

Duncan Stuart
City of Baltimore Planning Commission
Department of Planning
417 E. Fayette Street, 8th Floor
Baltimore, Maryland 21202-3416

Re: Clearwater Mills Trash Interceptor

Dear Mr. Stuart:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The applicant proposes to relocate a waterwheel powered trash interceptor for collection of trash and debris in Harris Creek, where it enters the Patapsco River. The equipment will be located on a floating platform that is 16 feet wide by 32 feet long. This project received prior approval in 2007, when it was located at the Jones Falls in the Inner Harbor.

After reviewing the consistency report, this office agrees that the project is generally consistent with the City of Baltimore Critical Area Program for the reasons outlined below.

1. No forests, woodlands, or trees will be removed, and no clearing will occur.
2. The structure will be placed in the water; therefore, no land will be disturbed and the Buffer will not be impacted.
3. There will be no new increase impervious surface.
4. Stormwater management and 10% Phosphorus removal are not applicable to this site since there is no increase in impervious surface.
5. No Habitat Protection Areas will be impacted
6. No non-tidal wetlands will be impacted.
7. Tidal wetlands will be impacted, and a permit from MDE is pending approval.

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

We request that a copy of the MDE tidal wetlands permit be provided to this office once it is received.

Thank you again for providing information on this consistency report application. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly

Natural Resource Planner

cc: BA 527-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 24, 2008

Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Jackson Variance
A130**

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to enlarge an existing sunroom, infill the patio area, and add steps to the existing patio area. The site is 19.82 acres in size and is designated Resource Conservation Area (RCA). Current lot coverage onsite is 46,456 square feet (5.3%); if the variance is granted, total lot coverage will increase by 55.5 feet to 46,511 square feet (5.4%). The proposed additions will be located further from Mean High Water (MHW) than the existing dwelling unit (71 feet).

Based on the information provided, we do not oppose the proposed variance request. However, we do have the following comment:

- Mitigation for any disturbance to the Buffer shall be performed at a 2:1 ratio.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 389-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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July 25, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Ashland Farm Subdivision
M1106; TM 33 P 37**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced subdivision. The applicant is proposing to create a major four-lot subdivision. The parcel is 87.92 acres in size, with 83.33 acres located in the Critical Area and designated as Resource Conservation Area (RCA).

Based on the information provided, we have the following comments on this proposed subdivision:

1. Provided there are no State-owned Tidal wetlands included in the RCA acreage of 83.33 acres, this parcel has four development rights.
2. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in

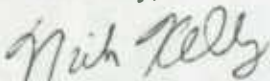
accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

3. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland.
4. The 100-foot Buffer must be expanded for both hydric and highly erodible soils located contiguous to the 100-foot Buffer. Mattapex soil is known to exist onsite.
5. The 100-foot and Expanded Buffer must be fully forested.
6. Please have the applicant remove the barn that is located within the 100-foot Buffer.
7. Talbot County soil maps reveal the presence of an intermittent stream between Lots 4 and 5, as well as another intermittent stream in the area where the nontidal pond is located. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Commission". Further, as of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, unless and until the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only possible methodology under the law for the identification of streams. Please have the applicant delineate these features on the site plan and provide a 100-foot Buffer around each stream. The stream Buffer may require expansion for adjacent hydric soils, highly erodible soils, or steep slopes. In addition, it appears that areas of tidal wetlands exist onsite. Please have the applicant provide the amount of wetland areas that is State-owned and privately owned. This number could affect the number of development rights allotted to the parcel.
8. Based upon comment #7, a wetland delineation must be performed onsite.
9. Please have the applicant provide the amount of forest coverage located onsite. The parcel must meet the 15% afforestation requirement within the Critical Area.
10. Mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing.
11. It appears that the applicant may be planning to expand the existing gravel drive into Ashland Drive, which is partially located within the 100-foot Buffer. An MDE permit for disturbance will be required in order to expand the roadway. We recommend minimizing disturbance to the Buffer for this proposed roadway as much as possible.
12. The site includes Ashland Drive as part of the Reservation of Development Rights (RDR) area of the parcel. Please have the applicant revise the site plan to show that the driveway is located outside of the RDR area.

13. GIS layering reveals that the property is located within a sensitive species area. Please have the applicant receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. In addition, coordination with the United States Fish and Wildlife Service (FWS) may be required. Please forward a copy of the applicant's communication with FWS to this office, once it is available.
14. The applicant states that the property is located in FIDS habitat. However, GIS layering does not confirm this statement. Please have the applicant clarify this issue. If the property is located within FIDS habitat, development restrictions will apply for any construction proposed in this area, and a FIDS Mitigation Analysis sheet must be submitted to this office for review and comment.
15. Due to the presences of a Sensitive Species and FIDS habitat onsite, a Habitat Protection Plan must be submitted to this office for review and comment, as required in §190-93 E(8)(d) of the Talbot County code.
16. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.
17. The Habitat Protection Plan, environmental site constraints, and all other environmental issues mentioned in this letter must be resolved prior to preliminary plat approval.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: TC 402-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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July 25, 2008

Gail Webb Owings
Director
Department of Planning, Housing and Zoning
Kent County Government Center
400 High Street
Chestertown, Maryland 21620

Re: Kent County Critical Area Program Text Amendment – Marine District Permitted Uses

Dear Ms. Owings:

The purpose of this letter is to provide an update regarding the Commission's processing of the above-referenced text amendment to the Kent County Critical Area Program. The text change proposes to define and allow as principal permitted use in the Marine District private residence and destination clubs; all properties zoned Marine are designated as an Intensely Developed Area (IDA). On July 21, 2008, Chair McHale determined that the proposed text amendment will be processed as a refinement to the Kent County Critical Area Program.

The proposed text amendment has been scheduled for review at the September 3, 2008 Critical Area Commission meeting in Crownsville. I will forward both a copy of the meeting agenda as well as a copy of my staff report as soon as they are available. If you have any questions, feel free to contact me at (410) 260-3483. Thank you for your help.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: file

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 25, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Yorktown Farm Subdivision
TM 10, P49**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced subdivision. The applicant is proposing to create a major six-lot subdivision, with four lots located in the Critical Area. The parcel is 504.17 acres in size, with 135.47 acres located in the Critical Area and designated as Resource Conservation Area (RCA). Total forest coverage onsite within the Critical Area is 41.00 acres (30.0%); the applicant currently does not propose to clear any forest.

Based on the information provided, we have the following comments on this proposed subdivision:

1. Provided there are no State-owned Tidal wetlands included in the RCA acreage of 135.47 acres, this parcel has six development rights. If the subdivision of this property is granted, only two development rights will remain in the Critical Area on this parcel.
2. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and

- b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.
- In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.
3. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland.
 4. The 100-foot and Expanded Buffer must be fully forested, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code.
 5. The applicant must remove all existing uninhabitable structures onsite within the Critical Area.
 6. GIS layering reveals that the property is entirely located within a sensitive species area. In addition, the site plan states that Delmarva Fox Squirrel habitat is located onsite or adjacent to this parcel. While we understand that no development is proposed for this area, we suggest that the applicant place this area in an easement to avoid any future development to this sensitive habitat area.
 7. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. In addition, coordination with the United States Fish and Wildlife Service (FWS) will be needed. Please forward a copy of the applicant's communication with FWS to this office, once it is available.
 8. The property is located within Forest Interior Dwelling Bird (FIDS) habitat. While it is our understanding that no development or clearing is proposed within the FIDS habitat area at this time, we suggest that the applicant place on a note on the site that restricts forest clearing within the FIDS habitat, and ensures that the site meets the requirements for FIDS protection found in §190-88 and §190-93 of the Talbot County Code.
 9. Due to the presences of Delmarva Fox Squirrel and FIDS habitat onsite, a Habitat Protection Plan must be submitted to this office for review and comment, as required in §190-93 E(8)(d) of the Talbot County code.
 10. Mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing and meets the site design guidelines within the Critical Area FIDS Guidance Manual.
 11. The Habitat Protection Plan, environmental site constraints, and all other environmental issues mentioned in this letter must be resolved prior to preliminary plat approval.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly

Natural Resource Planner

cc: TC 422-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 25, 2008

Mr. Anthony DiGiacomo
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

**Re: Curtis Subdivision
TM 58 P 76**

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above referenced subdivision. The applicant is proposing to create two lots (2A and 2B) from the original Lot 2; both proposed lots are located outside of the Critical Area. Lot 2C is partially located within the Critical Area and is designated Resource Conservation Area (RCA). The parcel is 36.215 acres in size; 10.05 acres is located within the Critical Area. No development activities are proposed within the Critical Area portion of Lot 2C.

Based on the information provided, we have the following comments on this subdivision request:

1. It appears that the applicant has not properly delineated the 110-foot Buffer on the site plan. Particularly, it appears from the site plan that mixed alluvial soils, nontidal wetlands, and steep slopes are all located adjacent to the Buffer. The Buffer shall be expanded for hydric or highly erodible soils, steep slopes, and/or nontidal wetlands that are located contiguous to the Buffer. Please have the applicant revise the site plan to accurately show the 110-foot and Expanded Buffer.
2. Any future development on this property should be located outside of the 110-foot Buffer and the Expanded Buffer. Please include a note on the plat stating per Section 196 Cecil County Code, that disturbance to the 110-foot and expanded Buffer is prohibited.
3. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. Impacts will need to be addressed based on the recommendation from the Maryland Department of Natural Resources.
4. GIS maps reveal that FIDS Habitat is located onsite. While it is our understanding that no development or clearing is proposed within the FIDS habitat area at this time, we suggest

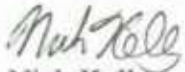


that the applicant place this area in an easement to avoid any future development to this sensitive habitat area. At a minimum, please add a note to the plat indicating the presence of FIDS habitat and the requirement for any disturbance of this area to comply with Cecil County development restrictions.

5. Please submit a copy of the Environmental Assessment and Report to this office for review and comment.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: CE 323-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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July 28, 2008

Mr. Robert Cuthbertson
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Baltimore City

Dear Mr. Cuthbertson:

I am writing to provide comments on the following projects located in Baltimore City:

200862476/08-WL-1491: Maryland Port Administration

In the Patapsco River, at Clinton Street, the applicant proposes to emplace 65 feet of stone armor within a maximum of 24 feet channelward of a failing bulkhead in order to support the aforementioned bulkhead.

The Baltimore City Critical Area Program recommends nonstructural shore protection measures whenever practical. Therefore, we recommend nonstructural measures in lieu of the proposed revetment, if possible. However, we do understand that structural means are typically the required method of shore protection for the City, particularly in the area of the Port of Baltimore. Therefore, if MDE determines that structural means are necessary for this project as well, then this office will defer to your determination.

Any disturbance to the 100-foot Buffer shall be mitigated at a 1:1 ratio, and the applicant should coordinate all activities with the City of Baltimore Department of Planning.

Thank you for the opportunity to provide comments on the referenced projects. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resources Planner

cc: Duncan Stuart, City of Baltimore Department of Planning
file

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 1, 2008

Mr. Joe Johnson
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Elkmore Improvement Association, Inc Variance
3417**

Dear Mr. Johnson:

Thank you for providing information regarding the above-referenced variance request. The applicant proposes to extend an existing pier. The property is 0.275 acres in size and is designated Intensely Developed Area. No new impervious surface is proposed.

Based on the information provided, we do not oppose this variance request. However, we do have the following comments:

- Mitigation for any disturbance to the 110-foot Buffer shall be provided at a 3:1 ratio.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: CE 418-08

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 1, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Elk Point Marina, Concept Plat
August 2008 Technical Advisory Committee**

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above-referenced subdivision. The applicant is proposing a 75-lot subdivision on a 76.326 acre parcel. Currently, 27.995 acres are designated as Intense Development Area (IDA), on which 70 of the lots are proposed. The remaining 48.331 acres are currently designated as Resource Conservation Area (RCA). The applicant is proposing the use of growth allocation to change the designation of 23.25 acres from RCA to Limited Development Area (LDA) in order to accommodate the remaining 5 proposed lots and sewage disposal area.

Based on the information provided, it appears that several of the comments provided in our June 30, 2008 letter have not been addressed in the current submittal, particularly the following:

1. It appears that the building envelopes of Lots 71, 72, and 75 are located in an area of slopes 15% or greater, which would thus require a variance in order to construct on each lot. In order for the Critical Area Commission to grant growth allocation, proposals must be designed in conformance with the Cecil County Critical Area Program as well as the Critical Area Law and Criteria, including the requirement that subdivisions be created so that any need for a variance is eliminated. Please have the applicant reconfigure these lots to be conforming in nature.
2. The applicant is required to establish a 300-foot setback for the newly created LDA unless the local jurisdiction proposes, and the Commission approves, alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources. It appears that the applicant is providing a Buffer Enhancement Easement on all lots that lie within 50 feet of the required expanded Buffer to "further Buffer sensitive

areas.” Commission staff has significant concerns about whether this offset will provide greater benefits to water quality and habitat than a 300-foot Buffer. We strongly recommend the applicant provide a 300-foot Buffer onsite, or consider providing several additional offsets in conjunction with the proposed easement. For reference, attached to this letter is a copy of the August 6, 2008 Panel Report for Hatton’s Garden, a growth allocation project within the Town of St. Michaels that is providing several environmental enhancements in lieu of a 300-foot Buffer.

3. The applicant proposes to place a marina and clubhouse parking within the 110-foot Buffer. No structures are allowed within the 110-foot Buffer unless they are water-dependent. The applicant must relocate these structures outside the Buffer.
4. The applicant has delineated several areas onsite as “Potential Buffer Expansion Areas.” These regions are areas of steep slopes that are contiguous to the 110-foot Buffer or expanded Buffer. Per Section 196 of the Cecil County Zoning Ordinance, the 110-foot Buffer to tidal waters, tidal wetlands, and tributary streams, must be expanded to include contiguous sensitive areas, such as steep slopes, hydric soils, or highly erodible soils. Therefore, the Buffer must be expanded for these areas.
5. It is our understanding that the applicant proposes to use drip irrigation onsite to meet the goals of wastewater and sewage systems onsite. Prior to full submittal to the Critical Area Commission, the applicant will need to provide a copy of the MDE approval for drip irrigation for this site.
6. Due to the presence of Natural Heritage Areas, a bald eagle’s nest, and Wetlands of Special State Concern onsite, a Habitat Protection Plan will be required for review and approval by this office. An updated review of the property from the Maryland Department of Natural Resources Wildlife and Heritage Service (WHS) is also required. Any recommendations made by WHS must be addressed and incorporated into the Habitat Protection Plan.
7. Mitigation for forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing.
8. The application indicates shoreline erosion control measures will be installed at this site. The applicant should contact MDE Tidal Wetlands Division to determine the type of replacement structure that may be allowed. A copy of any approved permit must be forwarded to this office.
9. The concept plan states approximately 70 private slips will be provided as part of the subdivision. Information included in our files state the old commercial marina provided 50 boat slips. If the applicant is proposing a community facility for the residents of the subdivision, the number of slips is determined by Section 198 of the Cecil County Zoning Ordinance. Section 198 permits the lesser of one slip for each 50 feet of shoreline in the IDA and LDA or 37 slips for the 75 platted lots in the Critical Area. If the applicant is proposing a commercial marina, the number of allowable slips is determined by Maryland Department of the Environment.
10. Conceptual 10% calculations should be provided at the Concept Plan stage to ensure that the applicant accounts for the necessary stormwater treatment measures through the design stage.

Furthermore, we have the following additional comments based on the information provided:

1. It appears that the Buffer has not been properly expanded for steep slopes. The applicant must expand for steep slopes from the edge of the 110-foot Buffer, as found in §196 of the Cecil County Zoning Ordinance. In reviewing the transect calculations provided, it appears that the Buffer was expanded from 100 feet, not 110 feet.
2. The 110-foot and Expanded Buffer must be fully forested, as found in COMAR 27.01.09.01 and §196 of the Cecil County Zoning Ordinance.
3. The applicant should refer to our June 30, 2008 letter for a list of the growth allocation standards, factors that must be considered when reviewing growth allocation, and materials required to be submitted to Commission staff for review of a growth allocation project.
4. Please have the applicant forward to this office a copy of the MDE permit for repairs to the existing marina facility.
5. The applicant states that it is meeting the community sewer requirement for growth allocation. It does not appear that a community sewer is proposed, but rather a community wastewater treatment plant and drip irrigation site. Please have the applicant clarify how it meets this requirement.
6. The County Commissioners will be required to make findings of fact that state how the project is meeting both the standards and factors for consideration necessary to approve a growth allocation request. These findings must be included with the entire growth allocation submittal.

Finally, we continue to note that the County is currently under sanction by the Critical Area Commission regarding the Habitat Protection Area provision of the Zoning Ordinance. Consequently, the Planning Commission may not approve any final subdivision plat in a Habitat Protection Area. Further, we may have additional comments to provide once the necessary changes to the Zoning Ordinance have been made.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner

cc: Jason Traband, CNA
CE 10-04

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 1, 2008

Gary Letteron
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, MD 21202

Re: Frankfurst Avenue Building Permit

Dear Mr. Letteron:

Thank you for providing information on the above-referenced building permit application. The applicant is proposing to redevelop 2.7 acres of a 38.75-acre site to construct a steel shed for storage of bagged concrete. The property is designated Intensely Developed Area (IDA). The applicant is meeting 10% pollutant removal requirements onsite through the reduction of impervious surface onsite; in addition, the applicant is providing nine infiltration basins over the entire site. To meet 15% afforestation requirements onsite within the 2.7 acre portion of the property, the applicant is providing 41 trees and seeding with a mix of grasses, herbaceous plants, and shrubs.

Based on the information provided, we have no additional comments on this project.

Thank you again for providing information on this building permit application. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: BA 447-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 5, 2008

Ms. Suzanne Schappert
Anne Arundel County
Board of Appeals
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**Re: Schmidt Variance
2007-0351 V**

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow a dwelling addition with disturbance to slopes greater than 15%. The property is 2.11 acres in size, with .67 acres located in a Limited Development Area (LDA) and 1.44 acres located in a Resource Conservation Area (RCA). The property is currently developed with a one-story dwelling, hot tub, patio, wood deck, walkway, garage, and gravel driveway. The applicant proposes to expand the garage and construct a patio, a retaining wall, a screened porch, and a porch. The deck with patio would be located within an area of steep slopes. Current impervious surface on this site is 9,277 square feet (10.1% of the site) and will increase to 10,116 square feet (11.0%) if the variance is granted.

This variance application was originally reviewed by this office in November 2007 with the applicant proposing to expand the garage and construct a deck with patio beneath it, a retaining wall, a screened porch, and a porch; the deck with patio was located within an area of slopes greater than 15%. In December, a second site plan was submitted that reduced the size of the proposed deck, removed the patio underneath it, and constructed a patio adjacent to the proposed deck but outside of the area of steep slopes. Presently, the applicant has submitted a third site plan, proposing to remove the deck completely and proposing a patio/grassy area within the area of steep slopes. Total disturbance to steep slopes will be 528 square feet.

While I acknowledge that the applicant believes that this newly revised proposal minimizes impacts to slopes greater than 15%, it does not appear that the applicant can meet the variance standard for unwarranted hardship; that is, without the granting of this variance, the applicant would be denied reasonable and significant use of this lot. Currently, the property is

developed with a one-story dwelling, hot tub, patio, wood deck, walkway, garage, and gravel driveway. The applicant proposes to expand the garage and construct two patios, a retaining wall, a screened porch, and a porch. One of the proposed patios is located in an area of slopes greater than 15%. Given the uses currently enjoyed by the applicant on this property, we do not believe that the County has evidence on which to base a finding that, without the patio located in an area of steep slopes, the entire parcel would lack reasonable and significant use. Therefore, no disturbance to steep slopes should be permitted. Granting of such a variance to allow an accessory structure, such as a patio, in an area of slopes greater than 15% will result in destabilization of the slope, an increase in stormwater and sediment runoff, and the loss of essential infiltration opportunities. It appears that the applicant could avoid the need for a variance to steep slopes by placing the patio on the northwestern or southwestern corners of the lot. Therefore, the comments provided in my November 13, 2007 letter and December 17, 2007 letter are still applicable to this project, and I recommend that this variance request be denied. I have attached the two aforementioned letters to be included in the record for this variance case.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: AA 645-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 5, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Boettcher Subdivision
TM 37, P 19**

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above-referenced subdivision. The applicant proposes to create a twenty-two lot subdivision. At this time, it appears that the portion of the site plan proposed for subdivision is not located within the Critical Area. Therefore, this office has no comments at this time.

Thank you for providing information on this subdivision request. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: CE 155-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 5, 2008

Mr. Anthony DiGiacomo, AICP
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

**RE: Browning Creek Subdivision Concept Plat
TM52 Block 24 Parcel 20**

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above referenced subdivision concept plat. The applicant is seeking to develop a 47-lot subdivision. The entire parcel is 354.94 acres, with 111.084 acres located in the Critical Area and designated Resource Conservation Area (RCA). The Critical Area portion of the site is currently developed with farm buildings and foundations. The applicant proposes to create 5 lots within the RCA portion of the site.

Recently, the Cecil County Commissioners have tentatively approved changes to the Critical Area section of the Cecil County Zoning Ordinance. Based on those proposed changes and the information provided, I have the following comments:

1. Please have the applicant provide the amount of both State and private tidal wetlands located onsite. State wetlands cannot be included in Critical Area development calculations such as the number of allowable dwelling units for RCA, impervious surface, or forest clearing.
2. The eastern portion of the site is adjacent to a Nontidal Wetland of Special State Concern. Any proposed construction of water-dependent structures in this area will be subject to Maryland Department of the Environment regulations.
3. The property is located adjacent to a historic waterfowl concentration area. Therefore, any construction of water-dependent shoreline facilities will be subject to time-of-year restrictions. We recommend that the applicant contact WHS for more guidance on this issue.

4. WHS has indicated that State-listed threatened species (Lake-bank Sedge and Maryland Burmarigold) are known to occur within close proximity of the project site in Black Duck Creek. A site-specific survey of the RCA should be done to determine whether these species occur near the proposed development. If species are found, the applicant will be required to prepare a revised Environmental Assessment that includes habitat protection, provisions per proposed §197.12b(1) and §200.2. A copy of the revised EA should be referred to this office for review and comment.
5. Impacts to slopes of 15% or greater is prohibited per §196 of the Zoning Ordinance. Any proposed impacts will require a variance, which could not be supported by this office.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: CE 468-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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August 7, 2008

Mr. Blaine Smith
Zoning Administrator
Town of Ocean City
PO Box 158
Ocean City, MD 21843

**Re: Topsail Townhouse Rehab
15175**

Dear Mr. Smith:

Thank you for providing supplemental information on the above-referenced building permit. The applicant is proposing to construct a pervious deck for a three-unit townhouse. The parcel is 6,900 square feet in size and is designated R-2; the setback for this parcel is 10 feet. No new impervious surface is proposed. The applicant has planted three shrubs (Pink Azalea) onsite.

The applicant is meeting 10% requirements onsite by constructing the deck as pervious in nature.

Based on the information provided, we have the following comment on this project:

- As stated in my July 8, 2008 letter, we still continue to have concerns with the location of the proposed deck within the 100-foot Buffer. The Town of Ocean City Atlantic Coastal Bays Critical Area Program §30-554(d)(1) states that, "New development, including accessory structures, shall minimize the extent of intrusion into the Buffer..." While the Town's Critical Area Program allows pervious decks in the setback, it appears that the construction of an additional 450 square feet of decking does not minimize Buffer intrusion, particularly since *each* townhouse currently enjoys the use of 192 square feet of existing deck. In addition, the deck encroaches closer to Mean High Water (0 feet) than the existing decks (10 feet).

The Critical Area law was created to protect the valuable, fragile, and sensitive areas along the shoreline from human activity. This includes minimizing adverse impacts to water quality and habitat as well as reducing human activity in shoreline areas by limiting the development of non-water dependent structures or impervious surfaces, particularly within the 100-foot Buffer. The setbacks in the Ocean City Critical Area Program are

intended to help minimize those adverse impacts. By constructing a deck in the setback area, there is no opportunity to provide any water quality or habitat benefits. With the Critical Area law in mind, Commission staff recommends that the Town not permit the new decking, particularly considering that *each* townhouse unit already enjoys the use of an existing deck.

Thank you for the opportunity to provide comments on this building permit request. Please have the applicant provide the information requested above along with a revised site plan. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly, Ph.D
Natural Resource Planner
cc: OC 377-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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August 11, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Rouse Variance
A129**

Dear Ms. Verdery:

Thank you for providing information on the above referenced variance request. The applicant is requesting a variance to construct a deck addition within the 100-foot Buffer. The parcel is 11.21 acres in size and is designated Limited Development Area (LDA). The property is already developed with a two-story frame dwelling, pool, pool deck, two sheds, garage, stable, and gravel driveway. Total lot coverage onsite is 17,338.3 square feet (3.5%) and if the variance is granted, total lot coverage will increase by 558 square feet to 17,896.3 square feet (3.7%).

Talbot County Code §190-93E.3(c) states that new development activities may not be permitted in the 100-foot Buffer, except for those associated with water-dependent facilities or individual private piers." Although the proposed deck addition does not encroach closer to Mean High Water (MHW) than the existing dwelling unit (59 feet), it does not meet the definition of water-dependent. Based on the information provided, this office opposes the variance request as proposed, as the applicant currently enjoys reasonable and significant use of this property through the use of a two-story frame dwelling, pool, pool deck, two sheds, garage, stable, and gravel driveway.

Impacts to the 100-Foot Buffer

In 2002 and 2004, the General Assembly strengthened the Critical Area Law and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, particularly emphasizing the importance of the 100-foot Critical Area Buffer. Specifically, the General Assembly reaffirmed the stringent standards of the law, which an applicant must meet in order for a local jurisdiction to grant a variance to

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the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a Board of Appeals finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The County must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented. In reviewing the proposed project in conjunction with existing use of the property, the applicant currently enjoys reasonable and significant use of this property.

The Critical Area Buffer establishes an area of undisturbed natural forest vegetation, or an area for enhancement with vegetation native to the Critical Area, managed to protect shorelines, streams, wetlands, and riparian biological communities from adverse effects of land use. Thus, the County has enacted a specific set of provisions to recognize the importance of the 100-foot Buffer and maintain its integrity by prohibiting the construction of new structures unless they are water dependent (Talbot County Code §190-93). A variance to the 100-foot Buffer cannot be granted unless the applicant proves, and the Planning Director finds that, without the variance, the applicant would suffer an unwarranted hardship. We do not believe that this standard is met, and accordingly the variance should be denied. I have discussed each one of the variance standards below as it pertains to this site:

1. *That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.*

Currently, the lot is developed with a two-story frame dwelling, pool, pool deck, two sheds, garage, stable, and gravel driveway. The proposed deck will occur within the 100-foot Buffer. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on this information, and based on the fact that the applicant currently enjoys the use of over 1,400 square feet of pool and decking area as well as a patio or covered porch within the Buffer, the County does not have evidence on which to base a finding that, without the proposed deck, the entire parcel would lack reasonable and significant use.

2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction.*

The applicant has a reasonable use of this property for residential purposes, and therefore, would not be denied a right commonly enjoyed by neighboring properties. No property owner has the right to build a deck within the 100-foot Buffer, particularly if there is an opportunity to build outside of the Buffer. Therefore, the denial of a variance for non-water dependent development activity in the Buffer would not deny the applicants a right commonly enjoyed.

3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.*

If the variance is granted, it would confer upon the applicant a special privilege, in this case building a deck within the 100-foot Buffer, particularly when the applicant has demonstrated, by virtue of her/his application that there is room outside of the Buffer to place a patio or deck. The applicant currently enjoys the use of over 1,400 square feet of pool and patio area outside of the Buffer. To grant a variance to the Buffer would confer a special privilege on the applicant (§190-97). The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. The applicant has not overcome this burden.

4. *The variance request is not based upon conditions or circumstances, which are the result of the actions, by the applicant, nor does the request arise from any condition conforming, on any neighboring property.*

From the information provided, it does not appear that the variance request is based on conditions or circumstances that are the result of the applicant or from a neighboring property. Therefore, it appears that the applicant has met this standard.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.*

Granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. An increase in lot coverage in the Buffer and consequential disturbance to the land results in increased stormwater and sediment runoff and the loss of essential infiltration opportunities. Given that the applicant can adequately redevelop this property and enjoy outdoor activities outside of the 100-foot Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

In summary, the Planning Director must find that the applicant has overcome the burden to meet each and every one of the County's variance standards in order to grant a variance. Based on review of the variance application, the applicant has failed to meet

four of the five variance standards, and therefore we are unable to offer support for the applicant's request.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 419-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 12, 2008

Chris Corkell
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

Re: Poirier Variance

Dear Ms. Corkell:

Thank you for providing information on the above-referenced variance request. The applicant is proposing to construct a dwelling unit addition within the 100-foot Buffer that is closer to Mean High Water (MHW) than the existing primary dwelling unit. The property is 1.887 acres in size and is designated Limited Development Area (LDA). The property is currently developed with a single-family dwelling unit, deck, guest house, shed, pool, driveway, retaining walls, concrete pads, and brick pads. The applicant proposes to remove portions of the brick pad area to construct kitchen and living space area. Total lot coverage onsite is currently 9,205 square feet (11.20%); if the variance is granted, total lot coverage onsite will increase by 542 square feet to 9,747 square feet (11.85%). Total lot coverage within the 100-foot Buffer will increase by 13 square feet. The dwelling unit addition will be located 97.3 feet from MHW, while the existing dwelling unit is located 108.7 feet from MHW.

Based on the information provided, we cannot support the variance as proposed. While we do not oppose the construction of a dwelling addition, it appears that the applicant could redesign the proposed addition so that it is located entirely outside of the 100-foot Buffer. Therefore, Commission staff recommends that the applicant reduce or relocate the dwelling unit addition so that it is located entirely outside the Buffer area. However, if the Board of Appeals finds that the variance application meets each and every one of the variance standards as required, we recommend that the applicant provided mitigation at a rate of 2:1 for any disturbance to the Buffer.

Thank you for again for providing information on this Board of Appeals variance request. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: TC 451-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 12, 2008

Ms. April Stehr
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard, Suite 430
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Talbot County

Dear Ms. Stehr:

I am writing to provide comments on the following project located in Talbot County:

200862094/08-WL-1386: David N Bosserman:

In Oxford, along the Tred Avon River, the applicant proposes to remove an existing concrete slab breakwater and fill, grade, and plant marsh vegetation along 527 feet of eroding shoreline, with 1,013 cubic yards of sand, and a low profile, stone, sand containment sill emplaced within a maximum of 41 feet channelward of the Mean High Water (MHW) line. The purpose of this project is shore erosion control.

This office generally supports marsh creation as a means of shore protection in areas where long-term sustainability is ensured. However, Commission staff has concerns about the proposed re-grading of the banks at a 4:1 ratio, as this proposal appears to exceed the minimum necessary to provide shore erosion control. Staff would typically recommend a maximum 2:1 ratio for grading. We recommend that the applicant provide to this office information as to the necessity of requiring 4:1 slopes for review and comment. Please feel free to contact this office with any questions you may have in regard to our concerns on the proposed grading portion of this project.

In addition, to provide better comments on the proposed project, and to ensure that the project complies with Critical Area Law and regulations, we ask that MDE require the applicant to provide additional information for Commission staff review prior to approving the proposed project. Commission staff is willing to review this information in the form of a Buffer

Management Plan. If submitted as a Buffer Management Plan, the plan should include the following:

1. Current and proposed location of Mean High Water.
2. Any proposed changes to the 100-foot Buffer as a result of the change to MHW and/or the edge of tidal wetlands. Movement of the Buffer line could be problematic, particularly if a shift of the line places existing structures within the Buffer.
3. The areas of proposed tidal marsh creation and nontidal marsh creation.
4. The proposed plantings for the marsh creation project. In particular, the applicant must define whether the *spartina patens* will be considered as high tidal marsh or as nontidal marsh.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resources Planner

cc: Elisa DeFlaux, Talbot County Planning and Zoning

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
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August 13, 2008

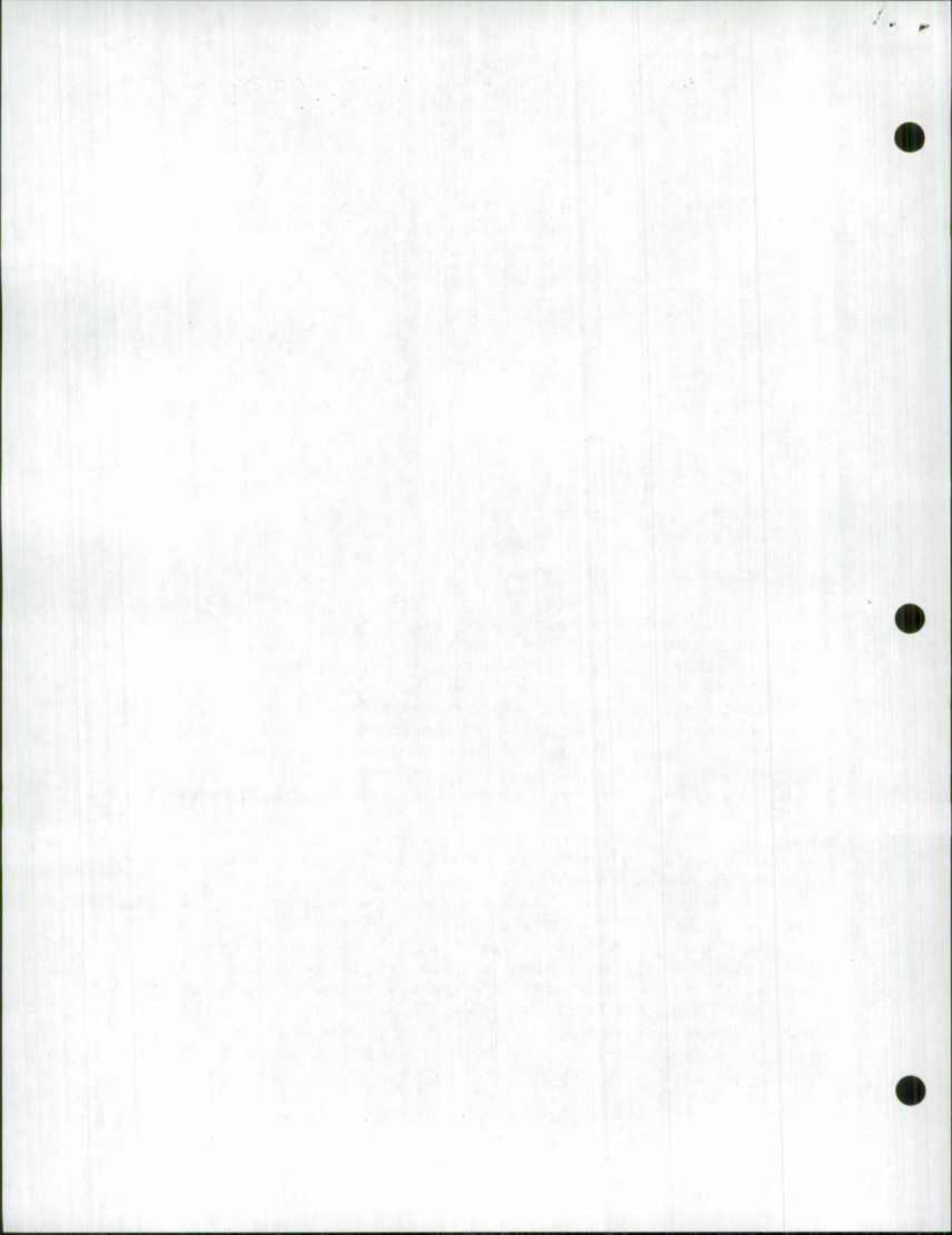
Ms. Suzanne Schappert
Anne Arundel County
Board of Appeals
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

**Re: 2008-0097-V
Wood Variance**

Dear Ms. Schappert:

Thank you for providing information on the above-referenced variance application. The applicant is requesting a variance to allow a dwelling with disturbance to slopes greater than 15%. The lot is 23,185 square feet in size and is designated as a Limited Developed Area (LDA). The applicant proposes to raze and remove an existing shed and construct a parking area and an attached addition to the existing single-family home. Total impervious surface onsite is currently 4,240 square feet (18.2%); if the variance is granted, impervious surface will increase by 991 square feet to 5,231 square feet (22.6%). Total forest cover onsite is 15,481 square feet (66.7%); the applicant proposes to remove 948 square feet of forest cover. Total area disturbed onsite will be 2,316 square feet; approximately 736 square feet of steep slope disturbance is proposed.

While we do not oppose the proposed construction of a new addition and driveway onsite, we cannot support the proposed location of the addition and driveway within an area of slopes greater than 15% as currently proposed. Anne Arundel County Zoning Code §17-8-201 states that "development within the Limited Development Area (LDA) or Resource Conservation Area (RCA) may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope or the disturbance is necessary to allow connection to a public utility." Based on aerial photography, it appears that there are opportunities onsite to further minimize disturbance to steep slopes. In particular, it appears from the site plan that the applicant could reduce the size of the proposed addition and parking area to further minimize steep slope impacts, or the applicant could relocate the addition so that the northernmost side is located in the same footprint as the northernmost side of the existing shed. This office may be able to support a variance that further minimized such steep slope impacts.



Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

Nick Kelly

Nick Kelly

Natural Resource Planner

cc: AA 194-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 15, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Webb Line Subdivision/Line Revision
M1115/L1090**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced subdivision and lot line revision. The applicant proposes to create a two-lot subdivision and revise lot lines between Tax Parcel 29 and Parcel 328. Total acreage for this site is 57.627 acres, with 55.947 acres located in the Critical Area. Revised Tax Parcel 29 is currently 7.583 acres in size and is located entirely within the Critical Area. Tax Parcel 328 is 50.044 acres in size, with 48.364 acres located in the Critical Area. Both parcels are designated Resource Conservation Area (RCA). Upon completion of the line revision, Revised Tax Parcel 29 will be 13.744 acres, while Tax Parcel 328 will be 43.833 acres (42.203 acres within the Critical Area). All development rights have been exhausted on each parcel. Current impervious surface for Tax Parcel 30 is 4,122.3 square feet (9.5%) and for Tax Parcel 43 is also 4,052.9 square feet (8.5%). Total forest coverage within the Critical Area is 9.882 acres (17.6%).

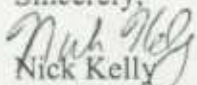
Based on the information provided, we have the following comments on this proposed subdivision:

1. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline,

- then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland.
2. It appears that the 100-foot Buffer has been expanded for hydric or highly erodible soils. Please delineate this line as the "Expanded Buffer" on the site plan. In addition, please provide soil types on the site plan to ensure that the Buffer was properly expanded for all occurrences of hydric or highly erodible soils.
 3. The 100-foot and Expanded Buffer must be fully forested, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. Please add a note referencing this requirement to the plat.
 4. Please provide the amount of forest cover onsite for each parcel. Each parcel must meet the 15% afforestation requirement onsite.
 5. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.
 6. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite.
 7. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.

Thank you for the opportunity to provide comments on this lot line revision. If you have any questions, please call me at (410) 260-3483.

Sincerely,


Nick Kelly

Natural Resource Planner

cc: TC ~~93-05~~

453-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 19, 2008

Lillian Lord
Town of Oxford
P.O. Box 339
Oxford, MD 21654

Re: Rhodes Variance

Dear Ms. Lord:

Thank you for providing information on the above referenced variance request. The applicant is proposing to construct a workshop, garage, and driveway within the 100-foot Buffer. The property is 15,862 square feet in size, is designated Intensely Developed Area (IDA), and is located in a Buffer Exemption Area (BEA). Total existing lot coverage onsite is 1,027 square feet (6.4%); the applicant proposes to increase lot coverage by 840 square feet to 1,867 square feet (11.4%). To meet 10% Pollutant Removal requirements and Buffer mitigation onsite, the applicant is proposing to plant three trees and sixty-three shrubs.

Since the property is designated BEA, a variance is not required. However, Oxford Zoning Ordinance §8.04.3a states that:

"New development or redevelopment activities, including structures, roads, parking areas, and other impervious surfaces or septic systems will not be permitted in the Buffer Exemption Area unless the applicant can demonstrate and the Planning Commission finds that there is no feasible alternative. Such findings shall document that the intrusion is the least necessary. A copy of the Planning Commission's findings in this regard shall be available to the Critical Area Commission upon request."

In reviewing the site plan for this application, it appears that there is ample opportunity to locate the proposed workshop, garage, and driveway *entirely* outside of the 100-foot Buffer and still be located in the rear and side yard of the lot, at least 15 feet from the street side property line, as required in §21.03.2 of the Oxford Zoning Ordinance. Therefore, Commission staff recommends that the applicant relocate the workshop,

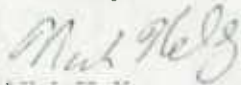
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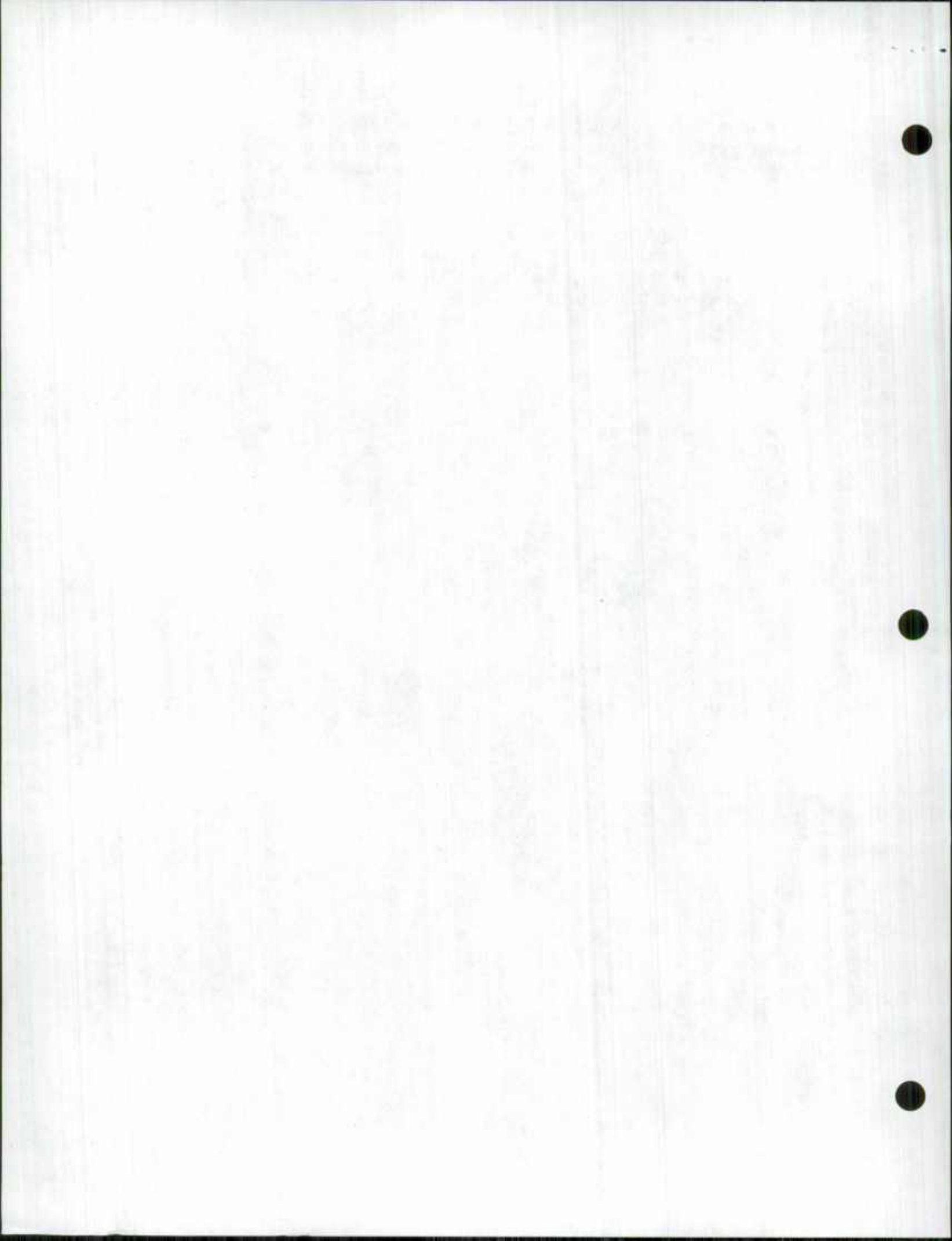
garage, and driveway outside of the Buffer area. We request the Town provide to this office a copy of the Planning Commission's findings for this application that determine there is no other feasible alternative in terms of locating these structures, and that the proposed intrusion is the least necessary onsite.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this application. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nick Kelly", written in a cursive style.

Nick Kelly
Natural Resource Planner
cc: OX 433-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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August 19, 2008

Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway
Centreville, MD 21617-0000

Re: Perryville Trail Connection

Dear Ms. Skilling:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The Town is proposing a trail connection to connect an existing trail to a proposed transient/water taxi pier. The project will consist of an eight-foot wide pedestrian walkway that is ADA accessible. The property is 2,400 square feet in size and is designated Intensely Developed Area (IDA).

In our July 23, 2008 letter, we had the following comment in regard to this project:

- To meet 10% requirements onsite, the applicant will be required to plant 19 trees onsite. We have an attached a planting agreement form to this letter to be completed and returned to this office for review and approval.

Since that time, the Town has submitted to this office a planting agreement, requesting to plant seven trees and 24 shrubs offsite at the Perryville Community Park in order to meet the 10% requirements for this project. The Town is unable to perform the plantings onsite due to Maryland Historic Trust and Baltimore Gas and Electric restrictions. Based on this information, Commission staff is amenable to the Town meeting its planting requirement at the Community Park.

Thank you again for providing revised information on this consistency report application. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: PE 319-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 19, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

**Re: Maxmore Properties, Inc
M1114, L1089**

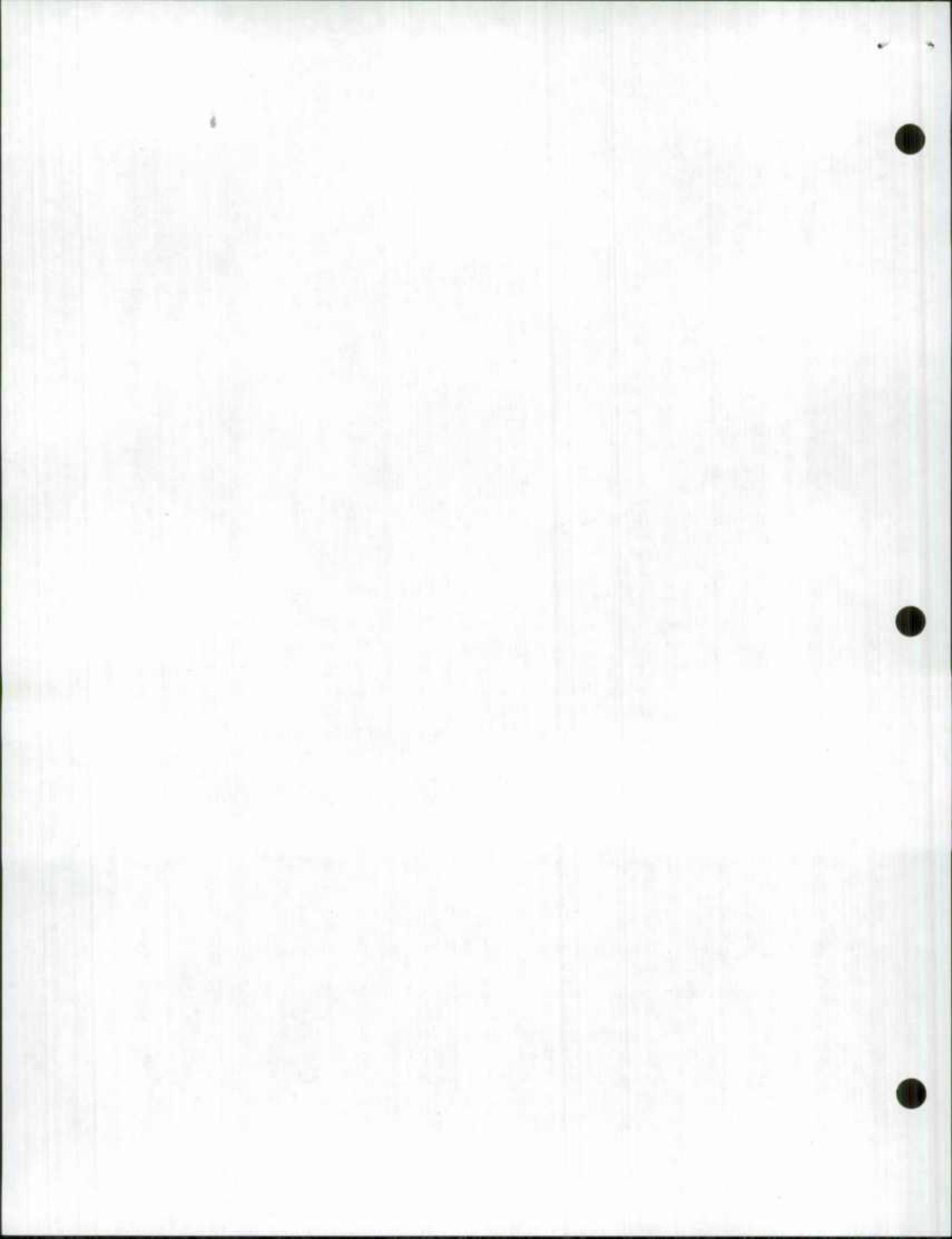
Dear Ms. Verdery:

Thank you for providing information on the above referenced revision plat. The applicant is requesting a minor three lot subdivision and minor lot line revision between two parcels (Revised Tax Parcel 60, Revised Tax Parcel 62). Total acreage between both parcels is 206.79 acres, with 71.626 acres located within the Critical Area; all Critical Area portions of the site are designated Resource Conservation Area (RCA). Currently, Revised Tax Parcel 60 is developed with a silo and barn within the Critical Area; Revised Tax Parcel 62 is developed with an existing home.

If the line revision and subdivision is permitted, Revised Tax Parcel 60 will create 3 lots and two areas of Reserved Lands within the Critical Area. In addition, Revised Tax Parcel 62 will increase in size from 3.072 acres to 7.162 acres (all located entirely within the Critical Area).. Total forest coverage onsite within the Critical Area is 5.873 acres (8.2%); the applicant proposes to provide 4.878 acres of additional forest coverage, thus meeting the 15% afforestation requirement.

Based on the information provided, we have the following comments on this project:

1. The applicant has exhausted all development rights on this parcel. No additional development shall be permitted on Reserved Lands "A" or Reserved Lands "B."
2. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project

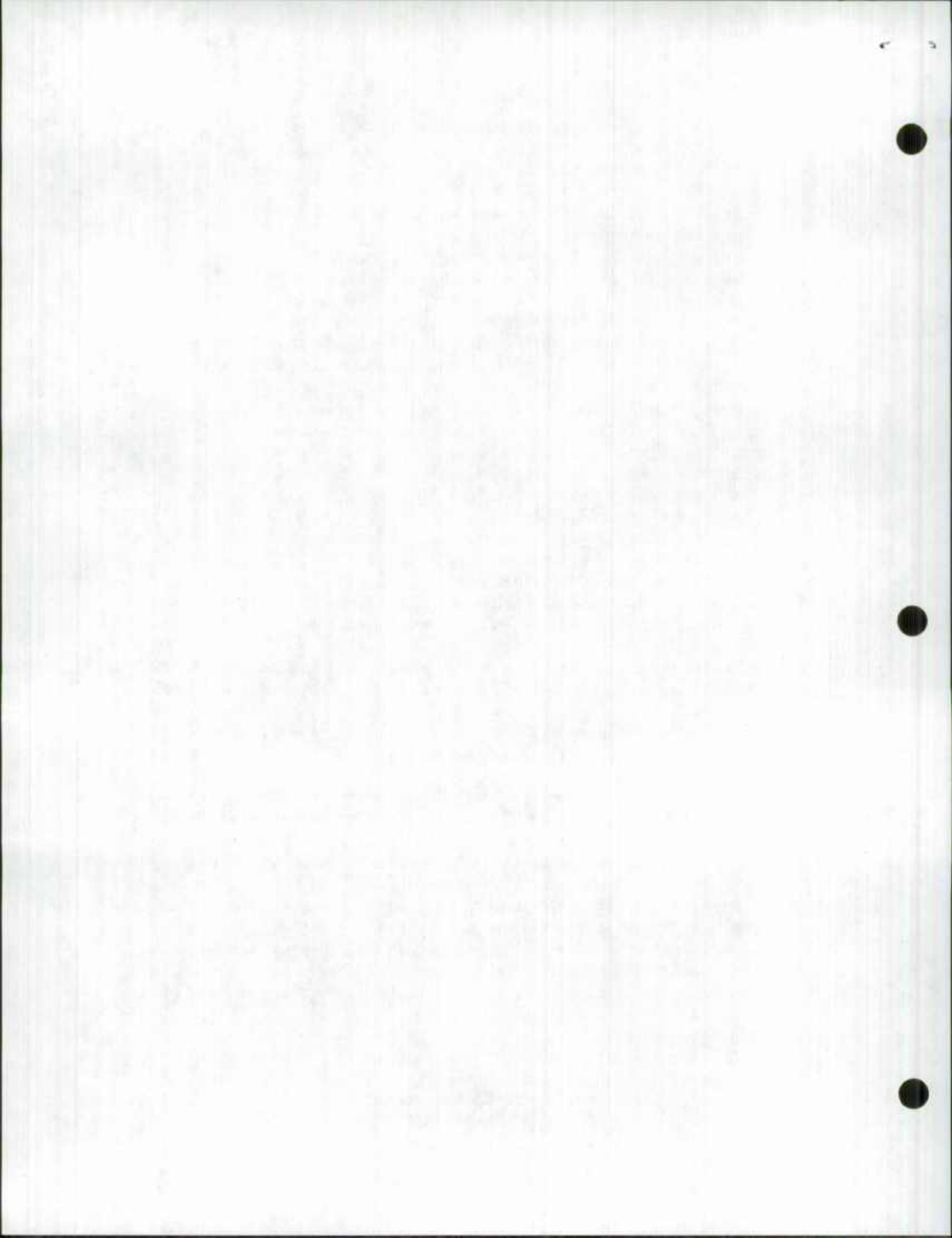


whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:

- a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
- b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

3. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland.
4. The 100-foot and Expanded Buffer must be fully forested, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. Please add a note referencing this requirement to the plat.
5. Talbot County Soil Maps reveal that the property is partially located in hydric soils (mixed alluvial). Please ensure that the applicant has properly expanded the 100-foot Buffer to protect these soils.
6. It appears that onsite streams were delineated using wetland, aerial, and topographic maps, as well as soil surveys. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Commission". As of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, unless and until the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only methodology provided under the law for the identification of streams. Please have the applicant provide information on how streams were delineated onsite to ensure that this requirement has been met.
7. GIS layering reveals that the property is located within a sensitive species area. Please have the applicant receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. In addition, coordination with the United States Fish

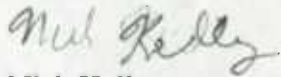


and Wildlife Service (FWS) may be required. Please forward a copy of the applicant's communication with FWS to this office, once it is available.

8. The property is located within Forest Interior Dwelling Bird (FIDS) habitat. While it is our understanding that no development or clearing is proposed within the FIDS habitat area at this time, we suggest that the applicant place on a note on the site that restricts forest clearing within the FIDS habitat, and ensures that the site meets the requirements for FIDS protection found in §190-88 and §190-93 of the Talbot County Code.
9. Due to the presences of sensitive species and FIDS habitat onsite, if impacts to these areas are proposed, a Habitat Protection Plan must be submitted to this office for review and comment, as required in §190-93 E(8)(d) of the Talbot County code.
10. Mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing and meets the site design guidelines within the Critical Area FIDS Guidance Manual.
11. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.
12. The Habitat Protection Plan, environmental site constraints, and all other environmental issues detailed in this letter must be resolved prior to preliminary plat approval.
13. Please have the applicant revise the net acreage for "RC Development Rights Summary: North Side of Rigby Lot" to state 50.696 acres, not 20.696 acres.

Thank you for the opportunity to provide comments on this lot line revision and subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: TC 456-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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August 21, 2008

Duncan Stuart
City of Baltimore Planning Commission
Department of Planning
417 E. Fayette Street, 8th Floor
Baltimore, Maryland 21202-3416

Re: Westport Waterfront - 10% Phosphorus Reduction Calculations

Dear Mr. Stuart:

Thank you for providing 10% Phosphorus Reduction calculations for the above-referenced project. The applicant is proposing to redevelop the existing site with residential and commercial buildings, streetscaping, parks, roadways, and alleys. The property is 44.11 acres in size and is designated Intensely Developed Area (IDA). Currently, total lot coverage on site is 35.21 acres (79.82%); upon completion of the proposed project, total lot coverage onsite will fall to 34.11 acres (77.32%). The applicant proposes to meet 10% requirements on site through the reduction of lot coverage onsite, and the installation of dry swales along the roadways and sand filters near the parking garage areas.

Based on the information provided, we have the following comments:

1. Based upon our August 11, 2008 meeting with the applicant, it is our understanding that the applicant may substitute the proposed sand filters onsite with green roof technology. If this is correct, the applicant must submit revised 10% worksheets accounting for the green roof technology. However, if the applicant uses the sand filters as proposed, then the applicant must submit schematics of this Best Management Practice in order to verify that the proposed sand filters are constructed to provide 65% phosphorus removal efficiency onsite.
2. This office will review Buffer offset fee requirements in conjunction with the full submission of the Westport Waterfront Master Plan and Buffer Management Plan.

Thank you again for providing information on this building permit application. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: BA 469-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 22, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

**Re: Koons Subdivision
M1117**

Dear Ms. Verdery:

Thank you for providing information on the above referenced revision plat. The applicant is requesting a minor three lot subdivision. The parcel is 117.415 acres in size, with 116.036 acres located within the Critical Area and designated as Resource Conservation Area. Total existing forest coverage within the Critical Area is 24.500 acres (21.1%). Currently, a single-family dwelling unit is being constructed on Lot 1.

Based on the information provided, we have the following comments on this project:

1. A total of four development rights are permitted on this parcel. Upon completion of this subdivision request, only one development right will remain.
2. This office provided comments on the proposed riprap revetment and wetland mitigation for this site to the Maryland Department of the Environment on July 8, 2008. A copy of the letter is attached. It is our understanding that the applicant is redesigning the proposed riprap project to avoid wetland impacts. We request that the applicant work closely with MDE and the County on this matter, and that all correspondence between the applicant and each agency be provided to this office.
3. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010

may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:

- a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
- b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

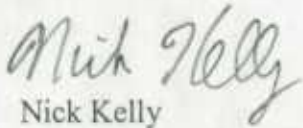
In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

4. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland. We specifically note this requirement, as the location of the access easement on Lot 1, as well as the Sewage Disposal Areas on Lots 1 and 3, are located within the 200-foot Buffer.
5. The 100-foot and Expanded Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. Please add a note referencing this requirement to the plat.
6. GIS layering and Talbot County soil maps reveal the presence of streams onsite within the nontidal wetland area. Additionally, it appears that onsite streams were delineated using wetland, aerial, and topographic maps, as well as soil surveys. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Commission". As of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, unless and until the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only methodology provided under the law for the identification of streams. Please have the applicant provide information on how streams were delineated onsite to ensure that this requirement has been met.
7. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.
8. The amount of Critical Area forest required for this site is 17.405 acres. Please have the applicant revised the Critical Area Forest Required note to state "17.405 Acres(15% of 116.036 acres)."

9. Mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing.

Thank you for the opportunity to provide comments on this lot line revision and subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nick Kelly". The signature is written in a cursive, slightly slanted style.

Nick Kelly
Natural Resource Planner
cc: TC 455-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 22, 2008

Chris Corkell
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

Re: **Wellington Variance**
1507

Dear Ms. Corkell:

Thank you for providing information on the above-referenced variance request. The applicant is proposing to provide access for an approved residential site by placing a roadway through a 100-foot stream Buffer. The property is 10.456 acres in size and is designated Resource Conservation Area (RCA). The applicant proposes to construct two culverts side by side, each 30 feet long and 12 inches in diameter, for the use of a 12 foot wide driveway. Total proposed impervious surface onsite is 12,610 square feet (2.7%).

Based on the information provided, and based on the fact that the right-of-way was deeded and recorded in the land records prior to the start of the Critical Area Program, we do not oppose this variance request. However, we do have the following comments:

1. If Lots 1 and 3 have common ownership, we recommend that the Board consider requiring the applicant to relocate and re-plat the access road to minimize stream and Buffer impacts.
2. We recommend reducing the road width from 12 feet to 10 feet in order to reduce stream and Buffer impacts.
3. Mitigation for any Buffer disturbance shall be performed at a 2:1 ratio.

Thank you for again for providing information on this Board of Appeals variance request. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 472-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 25, 2008

Mary Ann Skilling
Maryland Department of Planning
Upper Eastern Shore Regional Office
120 Broadway
Centreville, MD 21617-0000

Re: Charlestown Growth Allocation

Dear Ms. Skilling:

The purpose of this letter is to provide an update of the Commission's processing of the proposed growth allocation for the Town of Charlestown, Cecil County. On August 22, 2008, Chair McHale determined that the proposed growth allocation could be processed as a refinement to the Town of Charlestown Critical Area Program.

The proposed growth allocation has been scheduled for review at the September 3, 2008 Critical Area Commission meeting in Crownsville. I will forward both a copy of the meeting agenda as well as a copy of my staff report as soon as they are available. If you have any questions, feel free to contact me at (410) 260-3483. Thank you for your help.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner

cc: Henry Burden, Town of Charlestown
Eric S. Sennstrom, Cecil County

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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August 25, 2008

John Maholtz
Washington Suburban Sanitary Commission
14501 Sweitzer Lane
Laurel, MD 20707-5902

Re: Broad Creek Pumping Station Temporary Generators

Dear Mr. Maholtz:

Thank you for forwarding the above-referenced project for review. Commission staff has evaluated this project and determined that it qualifies for review under: Natural Resources Article §8-1814, Annotated Code of Maryland; COMAR 27.02.05- State Agency Actions Resulting in Development on State-Owned Lands; and §1-206, Annotated Code of Maryland. Subsequently, the project qualifies for review under the Memorandum of Understanding (MOU) between the Washington Suburban Sanitary Commission and the Critical Area Commission.

Specifically, this project meets the requirements for General Approval under Appendix A2, Emergency Situations, since the project is required immediately to prevent pump station overflows due to electrical power failures. It is our understanding that the temporary generators will be placed partially on the existing parking area, and partially on the existing lawn of the site. The generators will rest on wooden blocks above the grass and will be removed once the permanent generators are installed. No clearing or grading will be required. Based on this information, no further review by this office is necessary, notwithstanding any other required State or Federal permits.

Thank you for submitting this project to this office for review. If you have any questions, please do not hesitate to contact me at (410) 260-3483.

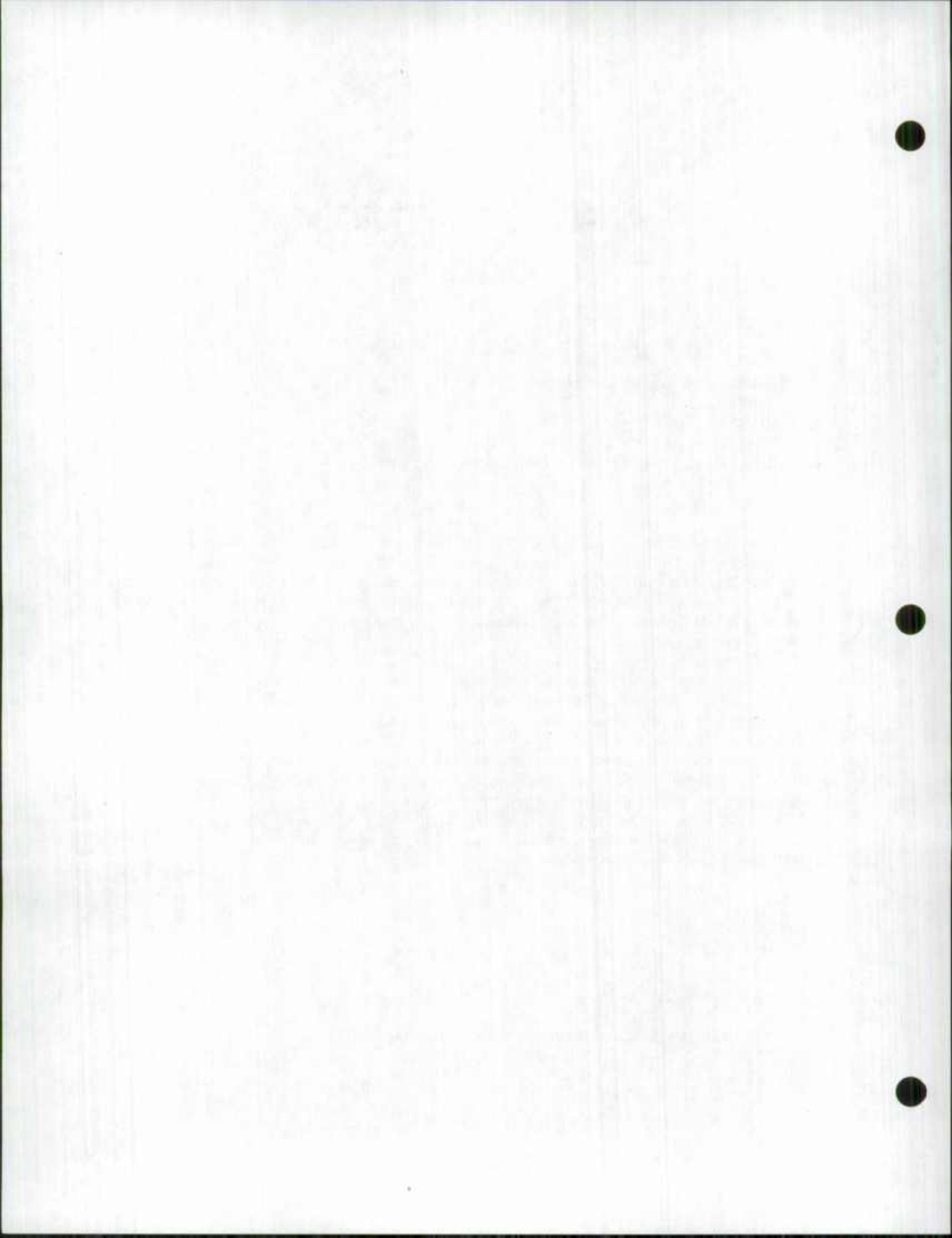
Sincerely,

Nick Kelly
Natural Resources Planner

cc: Paul Billingsley, Unit Coordinator – Environmental Programs
37-08

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450



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Governor

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August 26, 2008

Catherine Robbins
Maryland State Highway Administration
Project Planning Division
707 N. Calvert Street
Baltimore, Maryland 21202

**Re: MD 7C over Branch of Northeast Creek, Cecil County, MD
Project 706500**

Dear Ms. Robbins:

Thank you for forwarding the above-referenced project for review. Commission staff has reviewed this project and determined that it qualifies under Code of Maryland Regulations Title 27.02.03, General Approval of State Agency Programs, and subsequently, the Memorandum of Understanding (MOU) between the Department of Transportation and the Critical Area Commission.

Specifically, this project meets the requirements for General Approval under Exhibit B1, Section A, Paragraph 3(b) for the following reasons:

1. It is our understanding that the project will involve repairing (paving) the inverts, misaligned joints, and undermined areas with grout; patching an erosion hole on the northern headwall and rehabilitating both headwalls; removing debris from the inlets; replacing missing blocks; and repairing the spall in the northwest wing wall. All work will be completed within the existing right-of-way.
2. The project will result in 1,100 square feet of permanent impact and 1,840 square feet of temporary impact to Waters of the U.S., but no impacts to any wetland systems or their buffers will be proposed.
3. A sediment and erosion control permit is not required.
4. No disturbance to the 100-foot Buffer is proposed.
5. No excavation, stabilized construction entrance, or heavy equipment is required.
6. Reviews by the United States Fish and Wildlife Service, as well as the Maryland Department of Natural Resources Fish and Wildlife Service reveal that no federal or

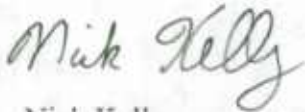
State-listed rare, threatened, or endangered species are known to occur within the project area.

7. The applicant has applied for a Joint Federal/State Permit Application on August 8, 2008.

Based on the information provided, no further review by this office is necessary. However, we do request the applicant supply to this office a copy of the Joint Federal/State Permit Application once it is received. In addition, we note that no instream work for this project is permitted between February 15 and June 15, as noted in a letter from Greg Golden of the Maryland Department of Resources.

Thank you for submitting this project to this office for review. If you have any questions, please do not hesitate to contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resources Planner

cc: Mr. Abdul Wakil, SHA
Ms. Meg Andrews, DOT Commission Member

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 27, 2008

Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Bissell Boat Building Site Plan
Local Case #474, TM 44A, P 14**

Dear Ms. Verdery:

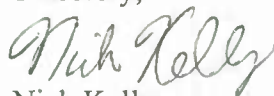
Thank you for providing information on the above referenced site plan request. The applicant is proposing to repair, replace and remodel an existing boat building located within the 100-foot Buffer; a variance has also been requested for this project. The property is 0.76 acres in size and is designated Limited Development Area (LDA). The applicant proposes to expand the existing boat building and to remove an existing gravel drive, gravel area, and sheds; the areas where impervious surface is removed will be planted with grass. Total existing lot coverage onsite is 14,208.1 square feet (42.7%). If the variance is granted, the applicant will add 2,996 square feet of lot coverage and remove 13,087 square feet of lot coverage; in total, the amount of lot coverage onsite will decrease to 4,116 square feet (12.3%). The proposed boat building expansion will not encroach closer to Mean High Water (MHW) than the existing footprint of the building (24 feet).

As stated in my July 14, 2008 variance letter, it is unclear whether the existing boat building will be razed and replaced, or whether it will be renovated and expanded. If the applicant is razing the boat house and replacing it, the applicant should be required to relocate the boathouse, as it appears that there is ample room to place this building outside the 100-foot Buffer. In addition, we recommend that the areas of removed lot coverage within the 100-foot Buffer be replanted with native plants and vegetation, as opposed to grass. However, if the applicant plans to renovate and expand the existing boat building, then Commission staff would recommend mitigation for any disturbance to the Buffer to be performed at a 2:1 ratio, and that the applicant replant the areas where lot coverage is removed with native plants and vegetation instead of grass.

In addition, we request that the applicant provide the amount of forest coverage onsite.

Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly

Natural Resource Planner

cc: TC 339-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 27, 2008

Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: Miles Point Marsh Creation

Dear Ms. Renshaw:

Thank you for providing information on the above-referenced marsh creation at Miles Point in the Town of St. Michaels. You requested expert advice from this office on the effects of the marsh creation on environmental matters in the waterway, including marine life, wildlife, conservation, water pollution, water quality, and erosion.

For a marsh creation project, such as the one proposed at Miles Point, this office relies on, and abides by, the findings, certifications, permits, licenses, and conditions of the regulatory agencies charged with reviewing and approving these projects, including the State of Maryland Board of Public Works, Maryland Department of Natural Resources, Maryland Department of the Environment, and United States Army Corps of Engineers. Consequently, this office strongly advises the Town to consult the documentation supplied by each regulatory agency to evaluate the potential impacts this project will have on the appropriate environmental features considered by each of the regulatory agencies listed above.

Thank you again for providing information on this marsh creation project. If you have any questions, please feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner

cc: TC 320-08
Marianne Dise, CAC
Lisa Hoerger, CAC

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
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August 27, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

**Re: Enniskillen Subdivision
TM 41 P 32**

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision request. The applicant is proposing to develop a five lot subdivision with a private road. The parcel is 125.66 acres in size, with 113.07 acres located in the Critical Area and designated as Resource Conservation Area (RCA). Total existing forest coverage onsite within the Critical Area is 20.43 acres (18.0%).

1. The applicant is permitted five development rights on this parcel. Upon completion of this subdivision, the applicant will have exhausted all available development rights.
2. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

3. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch.

119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland. We specifically note this requirement, as the location of several wells and Sewage Disposal Areas are located within the 200-foot Buffer.

4. The 100-foot and Expanded Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. Please add a note referencing this requirement to the plat.
5. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite.
6. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.
7. Talbot County soil maps reveals that the property is partially located in hydric and highly erodible soils (Othello, Keyport, Mattapex). The site plan states that the applicant "reserves the right to reconfigure the Buffer expansion in areas if accurate topography confirms the mapped soils overlay slopes less than 5%." This office notes that the 100-foot Buffer shall also be expanded if other areas of hydric or highly erodible soils are located contiguous to the 100-foot Buffer, as per §190-93E(b) of the Talbot County Code.
8. Talbot County soil maps reveal the location of two unspecified streams on Lot 11. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Commission." Additionally, it appears that wetland and stream delineations were performed using wetland, aerial, topographic, and other environmental resource maps. As of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, unless and until the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only methodology provided under the law for the identification of streams. Please have the applicant provide information on how streams were delineated onsite to ensure that this requirement has been met.

Thank you for the opportunity to provide comments on this subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner

cc: TC 481-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401

(410) 260-3460 Fax: (410) 974-5338

www.dnr.state.md.us/criticalarea/

August 27, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

**Re: Cromwell Farm/Culbertson Subdivision
TM 38 P 34**

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision request. The applicant is proposing to develop a nine lot subdivision with a private road. The parcel is 213.427 acres in size, with 193.931 acres located in the Critical Area and designated as Resource Conservation Area (RCA). The property is currently developed with an existing driveway. Total existing forest coverage onsite within the Critical Area is 27.350 acres (14.1%). The applicant proposes to plant an additional 1.752 acres of forest coverage to meet the Critical Area 15% afforestation requirement.

1. The applicant is proposing to construct an access road that will require variances to cross two streams. New lots created after the County's Critical Area Program adoption date must fully comply with all of the County's Critical Area regulations. Therefore, the applicant must reconfigure the road and lot lines to avoid the need for any variances.
2. The site plan reveals a Sewage Disposal Area (SDA) on Lot 10. It is unclear if this SDA will support development outside of the RCA area. Septic systems may not be located in the RCA to serve development outside of the RCA.
3. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:

- a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
- b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

4. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland. We specifically note this requirement, as the location of several wells and Sewage Disposal Areas are located within the 200-foot Buffer.
5. The 100-foot and Expanded Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. Please add a note referencing this requirement to the plat.
6. The property is located within Forest Interior Dwelling Bird (FIDS) habitat. While it is our understanding that, at this time, no development or clearing is proposed within the FIDS habitat area at this time, we suggest that the applicant place on a note on the site that restricts forest clearing within the FIDS habitat, and ensures that the site meets the requirements for FIDS protection found in §190-88 and §190-93 of the Talbot County Code. If development is proposed in FIDS habitat, a Habitat Protection Plan must be submitted to this office for review and comment, as required in §190-93 E(8)(d) of the Talbot County code.
7. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. In addition, coordination with the United States Fish and Wildlife Service (FWS) may be needed. Please forward a copy of the applicant's communication with FWS to this office, once it is available.
8. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.

9. Talbot County soil maps reveals that the property is partially located in hydric soils (Othello, Elkton). The 100-foot Buffer must be properly expanded for both hydric and highly erodible soils located contiguous to the 100-foot Buffer.
10. Talbot County soil maps reveal the location of a stream within the tidal marsh areas of Lots 8, 9, and 10. Additionally, it appears that onsite streams were delineated using wetland, aerial, topographic, and other environmental resource maps. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Commission". As of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, unless and until the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only methodology provided under the law for the identification of streams. Please have the applicant provide information on how streams were delineated onsite to ensure that this requirement has been met.

Thank you for the opportunity to provide comments on this subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: TC ~~46-08~~
460-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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August 28, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Elk Point Marina
Conceptual Environmental Assessment Plan**

Dear Mr. DiGiacomo:

Thank you for providing information regarding the conceptual environmental assessment for the above-referenced growth allocation and subdivision request. The applicant is proposing a 75-lot subdivision on a 76.326 acre parcel. Currently, 27.995 acres are designated as Intense Development Area (IDA), on which 70 of the lots are proposed. The remaining 48.331 acres are currently designated as Resource Conservation Area (RCA). The applicant is proposing the use of growth allocation to change the designation of 23.25 acres from RCA to Limited Development Area (LDA) in order to accommodate the remaining 5 proposed lots and sewage disposal area.

Based on the information provided, and upon reviewing the draft environmental assessment with our Regional Program Chief, Kate Schmidt, we have the following comments on this project:

1. The applicant is required to establish a 300-foot setback for the newly created LDA unless the local jurisdiction proposes, and the Commission approves, alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources. As mentioned in our August 1, 2008 letter, we *strongly* recommend the applicant provide a 300-foot Buffer onsite, or consider providing several additional offsets in conjunction with the proposed easement.
2. The applicant proposes to place a marina and clubhouse parking within the 110-foot Buffer. No structures are allowed within the 110-foot Buffer unless they are water-dependent. The applicant must relocate these structures outside the Buffer.
3. The applicant shall include the following notes on the environmental assessment plan:

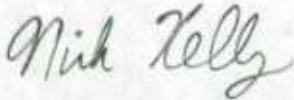
- a. Information stating that the 100-foot and Expanded Buffer will be fully forested in three-tier vegetation, as found in COMAR 27.01.09.01 and §196 of the Cecil County Code
 - b. Information addressing that the project will meet the Critical Area requirements for the protection of forest and developed woodlands in the LDA, as found in §200.6 of the Cecil County Code.
 - c. Information stating the how the project meets the guidelines of Maryland Department of Natural Resources Wildlife and Heritage Service and §197 of the Cecil County Code to protect the Natural Heritage Area onsite.
 - d. Information addressing the how the project meets the guidelines of Maryland Department of Natural Resources Wildlife and Heritage Service and §197 of the Cecil County Code to protect the bald eagle's nests that impact the site.
 - e. Information stating that the proposed development will comply with recommendation made by MDE regarding impacts associated with the Wetland of Special State Concern located onsite.
 - f. A reference to the Buffer Management Plan for this project, which will be required as part of a complete submission for the growth allocation request.
 - g. A reference to the 10% Phosphorus Reduction calculations found in the Environmental Assessment document.
4. Due to the presence of Natural Heritage Areas, a bald eagle's nest, and Wetlands of Special State Concern onsite, a Habitat Protection Plan will be required for review and approval by this office. An updated review of the property from the Maryland Department of Natural Resources Wildlife and Heritage Service (WHS) and MDE is also required. Any recommendations made by WHS, MDE, and any other agency deemed appropriate by the County must be addressed and incorporated into the Habitat Protection Plan.
 5. The environmental assessment plan must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Cecil County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Cecil County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

6. It appears that the Buffer has not been properly expanded for steep slopes. The applicant must expand for steep slopes from the edge of the 110-foot Buffer, as found in §196 of the Cecil County Zoning Ordinance. In reviewing the transect calculations provided, it appears that the Buffer was expanded from 100 feet, not 110 feet.
7. The applicant has delineated several areas onsite as "Potential Buffer Expansion Areas." These regions are areas of steep slopes that are contiguous to the 110-foot Buffer or expanded Buffer. Per §196 of the Cecil County Zoning Ordinance, the 110-foot Buffer to tidal waters, tidal wetlands, and tributary streams, must be expanded to include contiguous sensitive areas, such as steep slopes, hydric soils, or highly erodible soils. Therefore, the Buffer must be expanded for these areas.
8. Please revise all references of "Critical Areas" to "Critical Area."

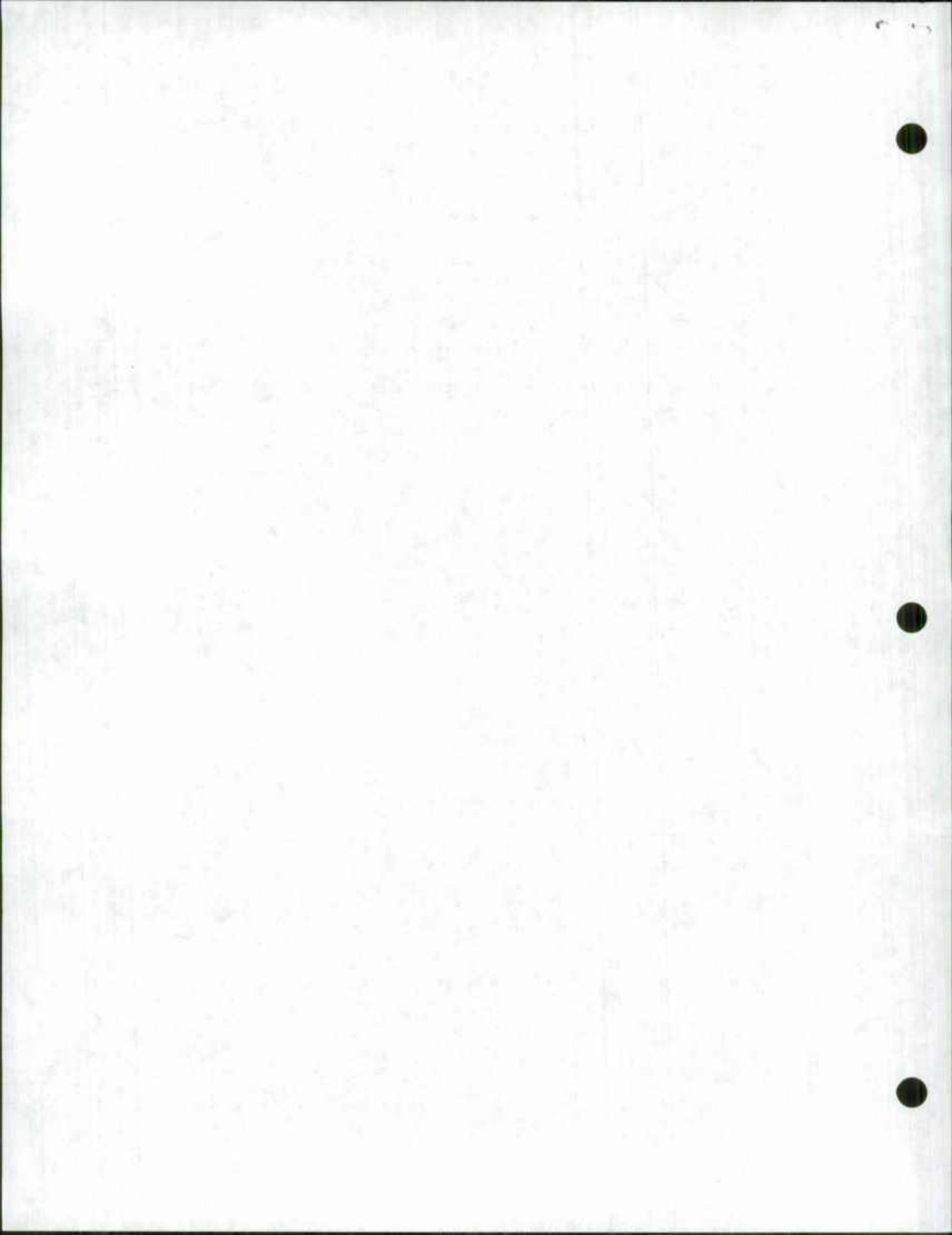
Thank you for the opportunity to provide comments on this draft environmental assessment. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner

cc: Jason Traband, CNA
CE 10-04



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 1, 2008

Gary Letteron
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, MD 21202

**Re: Jones Falls Trail Phase II
Consistency Report**

Dear Mr. Letteron:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The city of Baltimore proposes to enhance an existing roadway and walk area with a hiking and biking trail. The property is 1.69 acres and is designated as an Intensely Developed Area (IDA).

After reviewing the consistency report, this office agrees that the development activities proposed are generally consistent with the City of Baltimore Critical Area Program for the reasons outlined below:

1. No forest clearing is proposed for this project.
2. The applicant will provide 25 native trees, plus additional shrubs, onsite.
3. There will be no increase in lot coverage onsite.
4. The applicant will meet the 10% Phosphorus removal requirement by paying a fee-in-lieu of \$12,950.
5. Local stormwater management and sediment and erosion control permits will be received prior to the start of the construction.
6. There will be no impacts to the 100-foot Buffer.
7. No Habitat Protection Areas will be impacted.
8. No tidal or non-tidal wetlands will be impacted.

We have the following additional comments on this project:

1. Prior to the start of construction, please submit to this office a copy of the local stormwater management and sediment and erosion control permits.
2. Please submit to this office a copy of the proposed landscaping plan for review.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resources Planner

cc: BA 497-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 2, 2008

Mr. Anthony DiGiacomo, AICP
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

Re: Cecil County Critical Area Ordinance Text Amendments

Dear Mr. DiGiacomo:

We have received your request for the processing of the above referenced text amendments to the Cecil County Critical Area Program. The text changes creates standards for variances in new subdivisions located in Buffer Exemption Areas (Cecil County Zoning Ordinance §195) and language addressing current scientific standards for the protection of Habitat Protection Areas (§200).

This letter serves to notify the County that Commission staff has accepted the materials forwarded by the County as a complete submittal. The Chair will make an amendment or refinement determination within thirty days of the date of this letter, and Commission staff will notify you of her determination and the procedures for review by the Critical Area Commission.

Thank you for providing us with the opportunity to review your text amendment requests. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

Nick Kelly

Natural Resource Planner

cc: file

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 2, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

**Re: Johnston Subdivision
Tax Map 31, Parcel 66**

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision request. The applicant is proposing to develop a four-lot subdivision with a private road. The parcel is 89.392 acres in size and is designated Resource Conservation Area (RCA). Total existing forest coverage onsite within the Critical Area is 5.275 acres (5.87%).

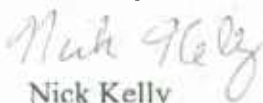
1. The applicant is permitted four development rights on this parcel. Upon completion of this subdivision, the applicant will have exhausted all available development rights.
2. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and

implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

3. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement, as stated in Chapter 119 of the 2008 Laws of Maryland.
4. The 100-foot and Expanded Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. Please add a note referencing this requirement to the plat
5. To meet the 15% requirement onsite, the applicant must provide an additional 8.21 acres of forest coverage onsite.
6. As noted in the MD Department of Natural Resources Wildlife and Heritage (WHS) letter, the proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.
7. Talbot County soil maps reveals that the property is partially located in hydric and highly erodible soils (Elkton, Keyport). The site plan states that the applicant "reserves the right to reconfigure the Buffer expansion in areas if accurate topography confirms the mapped soils overlay slopes less than 5%." This office notes that the 100-foot Buffer shall also be expanded if other areas of hydric or highly erodible soils are located contiguous to the 100-foot Buffer, as per §190-93E(b) of the Talbot County Code.
8. Please have the applicant more clearly delineate the 100-foot Buffer from tidal wetlands on Lots 1 and 4. Furthermore, we recommend that a wetland delineation be performed onsite to ensure that the 100-foot Buffer is accurately drawn on the site plan. As you are aware, the limits of the Buffer must be delineated in the field.

Thank you for the opportunity to provide comments on this subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: TC 502-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 4, 2008

Ms. April Stehr
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard, Suite 430
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Talbot County

Dear Ms. Stehr:

I am writing to provide comments on the following project located in Talbot County:

200862826/08-WL-1604: Maryland Department of Natural Resources (DNR)

On Black Walnut Point Road in Tilghman, MD, the applicant is proposing to remove an existing deteriorated timber bulkhead and emplace 127 feet of stone revetment within a maximum of 28 feet channelward of the existing timber bulkhead. The project is proposed for shore erosion control purposes.

This office received notification of this project from DNR in June 2008, stating that there was an immediate need to install the revetment, as the amount of rainfall the area had received in late spring had severely damaged the existing bulkheads and threatened to wash out the existing access road. Given the emergency nature of this situation, Chair McHale approved this project under COMAR 27.02.07.04(D), which allows certain projects that otherwise require Commission review and approval to be reviewed under a shorter timeframe than is standard for State and local agency projects. The project was approved with the following conditions:

1. The authorized work shall be included in the larger shoreline project at the Black Walnut Point NRMA when it is submitted to the Commission for review and approval.
2. Mitigation shall be provided at a 1:1 ratio for all disturbance within the Buffer.

A copy of Chair McHale's letter June 27, 2008 letter to Mr. Len Casanova of DNR Engineering/Shore Erosion Control is attached. We suggest that the applicant work closely with this office to ensure that all necessary information is provided to this office in a timely manner.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly

Natural Resources Planner

cc: Mary Kay Verdery, Talbot County Planning and Zoning
Enclosure

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 4, 2008

Gary Letteron
Environmental Planner
Baltimore City Department of Planning
417 East Fayette Street, 8th Floor
Baltimore, MD 21202

Re: Atotech USA
Site Plan

Dear Mr. Letteron:

Thank you for providing information on the above referenced building permit. The applicant is proposing to construct a roll-on/roll-off parking lot. The total site area is 5.5 acres, with 0.7 acres located within the Critical Area and designated as an Intensely Developed Area (IDA). The applicant proposes to increase lot coverage within the Critical Area from 0.0 acres to 0.15 acres. To meet the Critical Area 10% pollutant removal requirement, 0.10 pounds per year of phosphorus must be removed from the Critical Area portions of the property. The applicant proposes to meet this requirement onsite by installing a grass channel that provides a runoff velocity of one foot per second. To meet afforestation requirements, the applicant is planting eight trees (Pin Oak, Willow Oak, Red Oak) and 26 shrubs (inkberry); these plants will be native species.

Based on the information provided, we have the following comment on this project:

1. The applicant claims that only 0.7 acres of the site is located within the Critical Area. However, plat note 4 on the Sediment and Erosion Control Plan state that's that 0.8 acres is located within the Critical Area. Please have the applicant clarify this issue and revise any pollutant removal and afforestation numbers as required.

Thank you for providing the information on this proposed site plan. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: BA 496-08

Martin O'Malley
Governor

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September 4, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

Re: A132
O'Reilly Variance

Dear Ms. Verdery:

Thank you for providing information on the above-referenced variance application. The applicant is requesting a variance to improve and update an existing single-family dwelling unit within the 100-foot Buffer. The property is 13.69 acres in size and is located in a Resource Conservation Area (RCA). The lot is currently developed with a two-story dwelling unit, one-story pool house, gravel driveway, stone paver patio, pool, two-story garage, concrete aprons, concrete pads, brick walkway, and decks. The applicant proposes to remove portions of the gravel driveway, concrete apron, concrete pad, brick walkway, and decks, while constructing a porch, walkway, addition, and deck areas; the porch, additions, decks, and portions of the walkway are located within the 100-foot Buffer. Current lot coverage onsite is 22,118 square feet (3.7%); if the variance is granted, the applicant will remove 445 square feet of lot coverage and add 1,250 square feet of lot coverage, thus increasing total lot coverage onsite to 22,923 square feet (3.8%).

This office opposes granting the requested variance on this site. In reviewing the site plan, it appears that the applicant currently enjoys reasonable and significant use of the entire property, as the parcel is currently developed with a two-story home, pool, pool house, decking area, patio and two-story garage. Furthermore, the applicant states that the proposed porch, walkway, addition, and deck areas are no closer to Mean High Water (89.8 square feet) than the existing home (85.9 feet). However, the applicant is measuring the closest point to MHW from the existing deck attached to the dwelling unit. Talbot County setback policy states that "non-covered concrete patios, walkways, or similar structures built as an accessory to a primary or principal structure (i.e. residential patio, pool decking, walkways, etc.) *shall not be considered* for the purposes of determining the closest point of the primary or principal structure and/or use from Mean High Water of a

property line." Consequently, the proposed decking is located closer to MHW than the existing home and should be not permitted.

Impacts to the 100-Foot Buffer

In 2002 and 2004, the General Assembly strengthened the Critical Area Law and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, particularly emphasizing the importance of the 100-foot Critical Area Buffer. Specifically, the General Assembly reaffirmed the stringent standards of the law, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a Planning Officer finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The County must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this case the applicant is proposing to construct an addition, porch, walkway, and decking within the 100-foot Buffer. The Critical Area Buffer establishes an area of undisturbed natural forest vegetation, or an area for enhancement with vegetation native to the Critical Area, managed to protect shorelines, streams, wetlands, and riparian biological communities from adverse effects of land use. Thus, the County has enacted a specific set of provisions to recognize the importance of the 100-foot Buffer and maintain its integrity by prohibiting the construction of new structures unless they are water dependent (Talbot County Code §190-93). Constructing a new addition, porch, walkway, and deck areas within the 100-foot Buffer, located closer to Mean High Water than the existing principal structure, would be in direct conflict with the Buffer goals of reducing nutrient and sediment runoff, minimizing the adverse effects of human impacts, maintaining an area of transitional habitat between aquatic and ecological communities, protecting riparian wildlife, and maintaining natural vegetation.

The applicant has not met each one of Talbot County's variance standards and should therefore be denied a variance. I have discussed each one of the variance standards below as it pertains to this site:

- 1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.*

Currently, the lot is developed with a two-story dwelling unit, one-story pool house, gravel driveway, stone paver patio, pool, two-story garage, concrete aprons, concrete

pads, brick walkway, and decks. While the applicant proposes to remove portions of the gravel driveway, concrete apron, concrete pad, brick walkway, and decks, the applicant also proposes to increase total lot coverage onsite by constructing a porch, walkway, addition, and deck areas within the Buffer, with some structures located closer to MHW than the existing principal structure. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on the existing uses of the site, we do not believe that the County has evidence on which to base a finding that, without the construction of a porch, walkway, addition, and deck areas, the entire parcel would lack reasonable and significant use.

2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction.*

The applicant has reasonable use of this property for residential purposes, and therefore, would not be denied a right commonly enjoyed by neighboring properties. Therefore, the rejection of a variance for a porch, walkway, addition, and deck areas within the 100-foot Buffer, with some structures closer to MHW than the existing principal structure, would not deny the applicants a right commonly enjoyed.

3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.*

If the variance is granted, it would confer upon the applicant a special privilege, in this case the construction of a porch, walkway, addition, and deck areas within the 100-foot Buffer, with some structures located closer to MHW than the principal structure, which would be denied to others in this area as well as in similar areas found in the County's Critical Area. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

4. *The variance request is not based upon conditions or circumstances, which are the result of the actions, by the applicant, nor does the request arise from any condition conforming, on any neighboring property.*

From the information provided, it does not appear that the variance request is based on conditions or circumstances that are the result of the applicant or from a neighboring property. Therefore, it appears that the applicant has met this standard.

5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that*

the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.

Granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. An increase in lot coverage in the Buffer and consequential disturbance to the land results in increased stormwater and sediment runoff and the loss of essential infiltration opportunities. Given that the applicant can adequately redevelop this property and enjoy outdoor activities without the addition of a porch, walkway, addition, and deck areas in the 100-foot Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

In summary, the Planning Officer must find that the applicant has overcome the burden to meet each and every one of the County's variance standards in order to grant a variance. Because we believe that the applicant has failed to meet four of the five variance standards, we are unable to offer support for the applicant's request.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: TC 446-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

September 4, 2008

Chris Corkell
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Poirier Variance
A1505**

Dear Ms. Corkell:

Thank you for providing supplemental information on the above-referenced variance request. In the original variance application, the applicant proposed to construct a dwelling unit addition within the 100-foot Buffer that is closer to Mean High Water (MHW) than the existing primary dwelling unit. The property is 1.887 acres in size and is designated Limited Development Area (LDA). The property is currently developed with a single-family dwelling unit, deck, guest house, shed, pool, driveway, retaining walls, concrete pads, and brick pads. The applicant proposes to remove portions of the brick pad area to construct kitchen and living space area.

It is our understanding that the applicant has revised its original site plan to locate the proposed kitchen and living space area entirely outside the 100-foot Buffer. Proposed lot coverage onsite will increase to 9,715 square feet (11.8%). Based on this information, and provided that the proposed variance is in conformance with the requirements of the Talbot County Zoning Ordinance for a setback variance, we do not oppose this variance request.

Thank you for again for providing additional information on this Board of Appeals variance request. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: TC 451-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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September 4, 2008

Minas M. Arabatzis
Chief, Planning Division
United States Army Corps of Engineers
Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390

Re: C&D Canal Trail Project

Dear Mr. Arabatzis:

Thank you for submitting information regarding the above referenced project to review for consistency under the Maryland Coastal Zone Management Act and the goals and objectives of the Critical Area Law and Criteria. The proposed project will construct a multi-use trail on the north side of the Chesapeake and Delaware (C&D) Canal from Delaware City, DE to Chesapeake City, MD; the Maryland portion of this project is approximately three miles in length. I have reviewed the materials and determined that this project on Federal lands is consistent with the Maryland Critical Area Law and Criteria in the Code of Maryland Regulations based on the following reasons:

1. There will be no net increase in impervious surface onsite. Therefore, 10% Phosphorus Reduction is not required.
2. There will be no impacts to other Habitat Protection Areas, as most of the trail is constructed on previously disturbed land.
3. The applicant has worked with the Maryland Department of Natural Resources Wildlife and Heritage Service to ensure that there will be no adverse effects on rare, threatened, or endangered species.
4. The applicant has worked with the Maryland Historical Trust to ensure that project will have no adverse effects on upon cultural resources.

Additionally, we have the following comments:

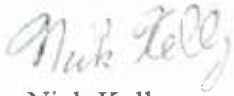
1. Any disturbance to the 100-foot Buffer shall be mitigated at a 3:1 ratio.
2. Mitigation must also be provided at a 1:1 ratio for area of woodland vegetation to be cleared.
3. If any Buffer mitigation or woodland mitigation is required, please submit a planting plan for review and comment, detailing the locations, species, and provisions for maintenance, survival, and monitoring of the plantings. Plants selected should be a mix of native trees and shrubs.

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Thank you for coordinating with us on this project. If you have any questions, please telephone me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resources Planner

cc: Mr. Elder Ghigiarelli, MDE

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 4, 2008

Mr. Anthony DiGiacomo
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

**Re: Skipjack Cove Yachting Resort
TM 67, Parcel 3**

Dear Mr. DiGiacomo:

Thank you for providing additional information on the above-referenced site plan. The applicant proposes to redevelop a portion of an existing marina property with a dry boat storage facility and pump house. The site area for this project is 2.90 acres and is designated Intensely Developed Area (IDA) and a Buffer Exemption Area (BEA). The proposed activity is located partially in the 110-foot Buffer; the applicant has been granted a variance by the Cecil County Board of Appeals to locate the dry boat storage facility within the 110-foot stream Buffer. To meet 10% Phosphorus removal requirements onsite, the applicant is reducing lot coverage within the site area from 1.33 acres to 1.30 acres. Additionally, the applicant is planting 11 shrubs (Summersweet Clethra) to meet mitigation requirements for proposed impacts within the BEA.

Based on the information provided, we have the following comments:

1. Please have the applicant delineate the 110-foot Buffer along the Sassafras River
2. The Lot Coverage table is still unclear and difficult to review. The applicant states that the proposed project will reduce lot coverage by 1,077 square feet. However, the amount of lot coverage removed is equivalent to the amount of lot coverage proposed (54,238 square feet). Please have the applicant provide more detail on how total lot coverage is being reduced by 1,077 square feet onsite.

Thank you for the opportunity to provide comments on this application. If you have any questions, please contact me at 410-260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: CE 526-04

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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September 5, 2008

Michael Bozman
Permits & Special Projects Manager
Maryland Port Administration
Engineering Department
2310 Broening Highway
Baltimore, MD 21224

Re: Shed 5A Demolition and Area 600 Paving Project

Dear Mr. Bozman:

At its meeting on September 3, 2008, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the Shed 5A Demolition and Area 600 Paving Project. Please note that should any changes to the site plan be proposed in the future, additional review and approval by the Commission will be required.

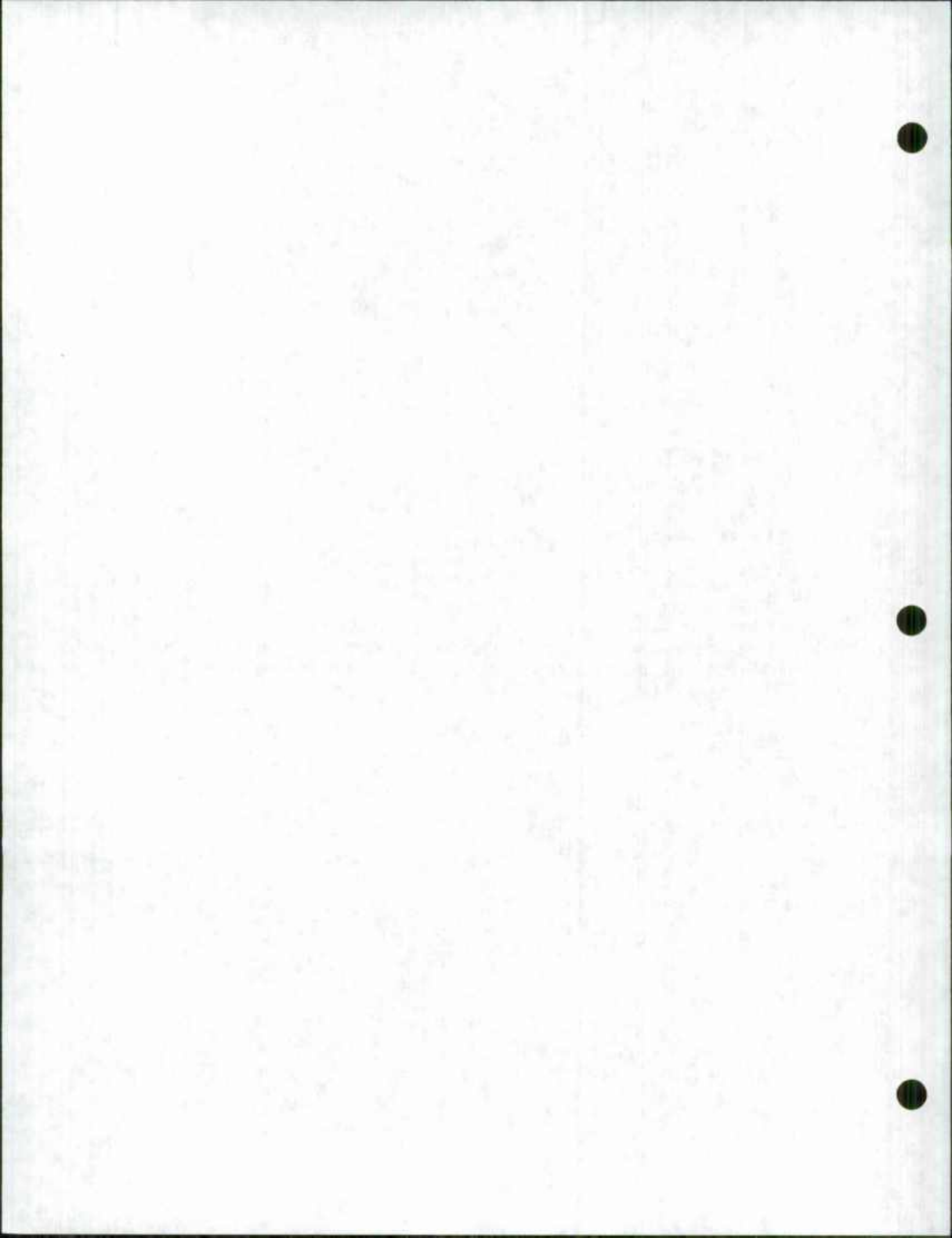
Thank you for your help in providing information for this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner

cc: 8-07
Matthew Crane, JMT, Inc.



Memorandum

To : James W. Price, Director, Program Open Space
Carrie Lhotsky, Program Manager, Community Parks and Playgrounds

From: Nick Kelly, Critical Area Commission

Re: **DNR Clearinghouse Review of Local POS Project 5442-16-698**
Magruder Park, Prince George's County

Dear Mr. Price and Ms. Lhotsky:

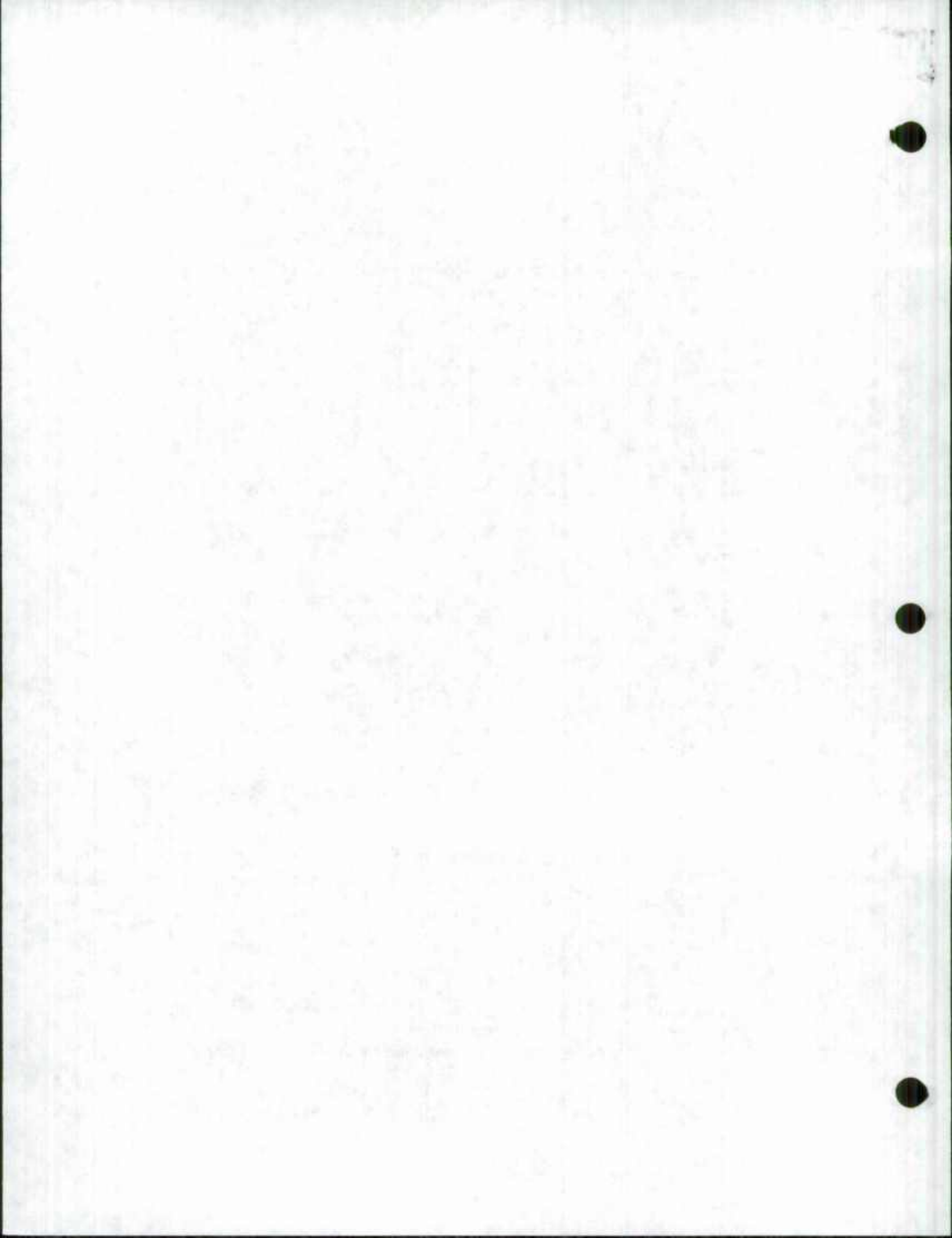
Thank you for providing information for the above-referenced project. The applicant plans to replace old playground equipment with equipment that is handicap accessible and meets current safety standards. The area is partially located within the Critical Area and is designated as a Resource Conservation Area (RCA).

Based on the information provided, it appears that the playground area of Magruder park is located outside of the Critical Area. However, if the playground area is located within the Critical Area, or is proposed to be moved into the Critical Area, then we have the following comments on this project:

1. We advise that Prince George's work closely with the Commission Staff as early as possible on this project since the proposal appears to contemplate active recreation in a Resource Conservation Area, which is generally not permitted unless the County seeks a conditional approval from the Critical Area Commission. Any proposed development activities will require a review by Commission staff.
2. Since the project is located in an RCA, lot coverage amounts are limited to 15%. In addition, 15% of the site must remain forested.
3. Only water dependent activities are permitted in the 100-foot Buffer.
4. Two areas of nontidal wetlands are located within the forested area onsite. Impacts to these areas and the associated 25-foot nontidal wetland buffer should be avoided, if possible.
5. The applicant must receive a letter from the Department of Natural Resources (DNR) Wildlife and Heritage Division evaluating the property to determine if there is the presence of any threatened or endangered species onsite. If present, the applicant must address all recommendations from DNR for protection of this species.

Thank you again for the opportunity to provide comments on this project. If you have any questions, please call me at (410) 260-3483.

cc: Mary Rea, Prince George's County Department of Public Works and Transportation
Jim Stasz, Prince George's County Department of Planning
Laura Connelly, Prince George's County Department of Parks and Recreation





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 8, 2008

Mr. Patrick Mitchell
Executive Director
Maryland Broadband Cooperative
212 W. Main Street, Suite 304
Salisbury, MD 21801

Re: Maryland Broadband Cooperative Fiber Optic Cable Installation

Dear Mr. Mitchell:

At its meeting on September 3, 2008, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the Maryland Broadband Cooperative Fiber Optic Cable Installation project with the following conditions:

1. The following text shall be removed from Right of Entry Agreement:

"3.5. Grantee agrees that any and all trimming of trees, cutting of timber and/or clearing of the Land and the Area will be reviewed and inspected by the Area Manager, before any work is initiated, to insure that all such cutting, etc., is within the Area.

2. Any references found in the Right of Entry and Declaration of Forest Conservation Covenant to the "Chesapeake Bay Critical Area Commission" shall be replaced with "Critical Area Commission for the Chesapeake and Atlantic Coastal Bays."

3. The following text shall be removed from the Forest Conservation Covenant:

"2.B. Passive recreational activities (as defined in the Public Local Laws of Queen Anne's County) which are consistent with and do not interfere with forest conservation and management or cause harm to forest management resources, including walking, hiking, and bird watching;"

"C. Forest conservation and management practices, including harvesting of trees in accordance with a written agreement with the State Department of Natural Resources; provided substantial provisions are made for replacement of harvested trees and no clear-cutting is proposed."

"4. Declarant may engage in limited clearing of the forest understory, such as may be necessary to allow a walking or hiking trail for foot traffic only, and may allow the removal of dead or dying

trees, and noxious plants or weeds.”

“6. The Declarant and/or Chesapeake Bay Critical Area Commission, or its duly authorized representatives, shall have the right, at reasonable hours, to enter the Planting Area for the sole purpose of inspecting the forest conservation area.”

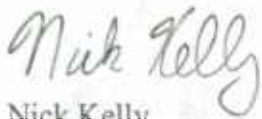
4. The following text shall be added to the Right of Entry Agreement:

“Grantee agrees that signage documenting the site as a Forest Mitigation Area and that no access is permitted shall be placed around the perimeter of the area at appropriate intervals.”

These conditions will be satisfied once a signed copy of the updated Right of Entry Agreement and Declaration of Forest Conservation Covenant are submitted to this office.

Thank you for all your help in providing information for this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner

cc: 14-08
Sean Callahan, Principal, Lane Engineering, LLC

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 9, 2008

Gregory J. Kappler
Baltimore Gas and Electric
1699 Leadenhall Street
Spring Gardens Facility
Baltimore, MD 21230

**Re: Spring Gardens Facility
Wildlife Habitat Council Certification**

Dear Mr. Kappler:

It is our understanding that the Baltimore Gas and Electric (BGE) is currently in the process of applying for an environmental certification from the Wildlife Habitat Council (WHC) for the Spring Gardens facility. Since 1994, BGE has worked with the Commission to create and maintain a fully forested 100-foot Buffer that provides both plant and wildlife habitat as well as enhanced water quality within the Critical Area of Baltimore City. This office supports the environmental stewardship efforts of BGE and the proposed environmental certification for the following reasons:

- BGE has created a fully forested 100-foot Buffer that provides cover and food for various birds, mammals, and amphibians. Additionally, the site is located along the Atlantic Flyway, thus providing a refuge for migrating birds in the spring and fall.
- The applicant has planted a wide mix of native shrubs and trees, creating a forested Buffer with good structural and species diversity, optimizing its value as habitat for wildlife.
- The site provides enhanced water quality for the local community by reducing the sediment and nutrient loads that enter the adjacent Patapsco River. The Buffer, as established, has been designed to ensure that the Buffer can function to reduce the velocity of stormwater runoff, infiltrate stormwater flows and recharge groundwater, moderate the temperature of runoff during storm events, and absorb and utilize nutrients.

Thank you again for the opportunity to provide comments to the WHC on your behalf. We appreciate all the efforts you have made to enhance the Critical Area within Baltimore City, and we look forward to continuing to work with you on future enhancements to this site.

Sincerely,

Nick Kelly

Nick Kelly

Natural Resource Planner

cc: BA 759-04

Mary Owens, Critical Area Commission

Duncan Stuart, City of Baltimore

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 9, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

**Re: Lambertson Family Sketch Subdivision
TM 31, P 36**

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision request. The applicant is proposing to develop a major three-lot subdivision with a private road and lot line abandonment. The parcel is 79.237 acres in size and is designated Resource Conservation Area (RCA). Total existing forest coverage onsite within the Critical Area is 19.398 acres (24.48%).

1. The applicant is permitted three development rights on this parcel. Upon completion of this subdivision, the applicant will have exhausted all available development rights.
2. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop

this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

3. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement, as stated in Chapter 119 of the 2008 Laws of Maryland. This element is of particular concern, as the Sewage Disposal Areas for all three lots are located within the 200-foot Buffer area.
4. The 100-foot and Expanded Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. Please add a note referencing this requirement to the plat
5. Since a new private road is proposed to serve the lots, the County should require the existing driveway in the Buffer to be abandoned and reforested. A note should be added to the plat to this effect.
6. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite.
7. It is our understanding that the applicant has applied for a Maryland Department of the Environment (MDE) permit to emplace revetment along Leadenham Creek. Any Buffer disturbance for this activity will require 1:1 mitigation. Please ensure that the applicant coordinates all activities associated with this construction project with MDE and your planning office.
8. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.
9. Talbot County soil maps reveals that the property is partially located in hydric and highly erodible soils (Othello, Keyport). The site plan states that the applicant "reserves the right to reconfigure the Buffer expansion in areas if accurate topography confirms the mapped soils overlay slopes less than 5%." This office notes that the 100-foot Buffer shall also be expanded if other areas of hydric or highly erodible soils are located contiguous to the 100-foot Buffer, as per §190-93E(b) of the Talbot County Code.
10. The site plan reveals the location of an intermittent stream, taken from the USGS Quad maps. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Commission." As of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, unless and until the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only methodology provided under the law for the identification of streams.

Lambertson subdivision

September 9, 2008

Page 3

11. DNR wetlands maps reveal the area of nontidal wetlands on Lot 1 to be tidal in nature. We recommend that a wetland delineation will be necessary to determine the nature of this feature.

Thank you for the opportunity to provide comments on this subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: TC 504-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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September 11, 2008

Arnold Norden, Maryland Park Service
Maryland Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

**Re: Elk Neck State Park, Chesapeake Gateway Signs
2008-DNR-089**

Dear Mr. Norden:

Thank you for providing information on the above referenced project, which will require full review by the Critical Area Commission. In reviewing the materials submitted, we cannot accept this application as a full and complete at this time, as the following information is required:

1. Comments, if any, that were received from various agencies during the DNR internal review process of this project. It is our understanding that the DNR Wildlife and Heritage Service had no comments on this project, but it is unclear if other agencies had any concerns.
2. A planting plan that addresses the Buffer mitigation impacts for this project.
3. The applicant must address the following environmental elements in order to qualify for conditional approval:

In order to qualify for consideration by the Commission for conditional approval, it shall be shown by the proposing or sponsoring agency that the project or program has the following characteristics:

B.(1) That there exist special features of the site or there are other special circumstances such that the literal enforcement of these regulations would prevent a project or program from being implemented;

B.(2) That the project or program otherwise provides substantial public benefits to the Chesapeake Bay Critical Area Program;

B.(3) That the project or program is otherwise in conformance with this subtitle;

The conditional approval request shall, at a minimum, contain the following:

C.(1) A showing that the literal enforcement of the provisions of this subtitle would prevent the conduct of an authorized State of local agency program or project;

C.(2) A proposed process by which the program or project could be so conducted as to conform, insofar as possible, with the approved local Critical Area program or if the development is to occur on State-owned lands, with the criteria set forth in COMAR 27.02.05;

C.(3) Measures proposed to mitigate adverse effects of the project or program or an approved local Critical Area program or, if on State-owned lands, on the criteria set forth in COMAR 27.02.05.

Please submit this information to our office at your earliest convenience. We note that the submittal deadline for the November Critical Area Commission Meeting agenda is September 24, 2008. If you have any questions or concerns about this matter, please feel free to contact me at (410) 260-3483

Thank you again for your help with this project.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: file

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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September 15, 2008

Ms. Betsy Vennell
Office of Planning and Zoning
Town of North East
PO Box 528
North East, Maryland 21901-0528

**Re: North East Isles
Lot 98, 99, 100**

Dear Ms. Vennell:

Thank you for providing information on the infill application for the above-referenced project. The applicant proposes to create a single-family house on Lots 98, 99, and 100 of the North East Isles subdivision. We have responded to the questions you have posed in your September 2, 2008 letter below:

Stormwater Management Plan:

The stormwater management plans and letter you have submitted to this officer refer to the Heron Cove subdivision. Therefore, it does not apply to the North East Isles project.

Infill Application:

This office defers to the Cecil County Department of Public Works to determine whether the porous pavers, decks, etc. are in compliance with County stormwater management regulations as well as other approvals for this project. However, we do note that the amount of impervious surface for each lot is limited to 15%; therefore, the applicant may need to reconfigure impervious coverage on each lot to meet this requirement, based on the County's determination of how much pervious credit the pavers will receive. A lot coverage plan would need to be filed with each lot outline this credit by July 1, 2010.

Critical Area Plan:

Upon reviewing the responses provided by Frederick Ward Associates in responses to Ms. Schmidt's March 19, 2008 comments, we believe that applicant has adequately addressed all

comments. However, this office would defer to your office's authority in determining whether the project meets the Town's Critical Area regulations.

Landscape/Mitigation Plan:

In reviewing the tree replacement plan, we believe that the applicant has met all requirements. However, this office would defer to your office's authority in determining whether the project meets the Town's Critical Area regulations.

Thank you again for providing information on this application. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly

Natural Resource Planner

cc: Mary Ann Skilling, Maryland Department of Planning
NE 424-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
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September 15, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Elk Point Marina, Concept Plat
September 2008 Technical Advisory Committee**

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above-referenced subdivision. The applicant is proposing a 75-lot subdivision on a 76.326 acre parcel. Currently, 27.995 acres are designated as Intensely Development Area (IDA), on which 70 of the lots are proposed. The remaining 48.331 acres are currently designated as Resource Conservation Area (RCA). The applicant is proposing the use of growth allocation to change the designation of 23.25 acres from RCA to Limited Development Area (LDA) in order to accommodate the remaining 5 proposed lots and sewage disposal area.

Based on the information provided, it appears that several of the comments provided in our August 1, 2008 letter remain outstanding. This information will need to be addressed prior to preliminary subdivision approval, including the following:

1. It appears that the building envelopes of Lots 71, 72, and 75 are located in an area of slopes 15% or greater, which would thus require a variance in order to construct on each lot. In order for the Critical Area Commission to grant growth allocation, proposals must be designed in conformance with the Cecil County Critical Area Program as well as the Critical Area Law and Criteria, including the requirement that subdivisions be created so that any need for a variance is eliminated. Please have the applicant reconfigure these lots to be conforming in nature.
2. The applicant is required to establish a 300-foot setback for the newly created LDA unless the local jurisdiction proposes, and the Commission approves, alternative measures for enhancement of water quality and habitat that provide greater benefits to the

resources. As mentioned in our August 1, 2008 letter, we *strongly* recommend the applicant provide a 300-foot Buffer onsite, or consider providing *several* additional offsets in conjunction with the proposed easement.

3. The applicant proposes to maintain an existing gravel parking lot that is within the 110-foot Buffer. When redevelopment of a property is proposed such as this, in which the applicant is proposing to convert a commercial use into a more intensive multi-family use with a significant increase in lot coverage, the Critical Area Criteria require the County and applicant to bring the parcel or lot into conformance with the existing law in so far as possible. As such, we question whether maintaining the existing gravel parking lot within the Buffer are consistent with the County Program as well as State Law and Criteria.
4. Taking comment #3 into account, and considering that the applicant is requesting growth allocation for a 23.25 of the parcel without providing a 300-foot setback, we recommend that the applicant remove the existing gravel parking lot. We acknowledge that the applicant has the right to shoreline access, and that the applicant requires reasonable means to access the proposed boat launch and slips. However, it appears that the applicant could provide perpendicular access to the boat launch while still restoring most of the existing parking area with native vegetation.
5. It is our understanding that the applicant proposes to use drip irrigation onsite to meet the goals of wastewater and sewage systems onsite. Prior to full submittal to the Critical Area Commission, the applicant will need to provide a copy of the MDE approval for drip irrigation for this site.
6. Due to the presence of Natural Heritage Areas, a bald eagle's nest, and Wetlands of Special State Concern onsite, a Habitat Protection Plan will be required for review and approval by this office. An updated review of the property from the Maryland Department of Natural Resources Wildlife and Heritage Service (WHS) is also required. Any recommendations made by WHS must be addressed and incorporated into the Habitat Protection Plan.
7. Mitigation for forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing.
8. The application indicates shoreline erosion control measures will be installed at this site. A copy of any approved MDE permit must be forwarded to this office with the growth allocation request.
9. The concept plan states approximately 70 private slips will be provided as part of the subdivision. Information included in our files state the old commercial marina provided 50 boat slips. If the applicant is proposing a community facility for the residents of the subdivision, the number of slips is determined by Section 198 of the Cecil County Zoning Ordinance. Section 198 permits the lesser of one slip for each 50 feet of shoreline in the IDA and LDA or 37 slips for the 75 platted lots in the Critical Area. If the applicant is

proposing a commercial marina, the number of allowable slips is determined by Maryland Department of the Environment.

10. The 110-foot and Expanded Buffer must be fully forested, as found in COMAR 27.01.09.01 and §196 of the Cecil County Zoning Ordinance.
11. The applicant should refer to our June 30, 2008 letter for a list of the growth allocation standards, factors that must be considered when reviewing growth allocation, and materials required to be submitted to Commission staff for review of a growth allocation project.
12. Please have the applicant forward to this office a copy of the MDE permit for repairs to the existing marina facility.
13. The applicant states that it is meeting the community sewer requirement for growth allocation. It does not appear that a community sewer is proposed, but rather a community wastewater treatment plant and drip irrigation site. Please have the applicant clarify how it meets this requirement.
14. The County Commissioners will be required to make findings of fact that state how the project is meeting both the standards and factors for consideration necessary to approve a growth allocation request. These findings must be included with the entire growth allocation submittal.

Additionally, we note that the applicant should refer to our August 28, 2008 letter for any changes required to the Conceptual Environmental Assessment Plan.

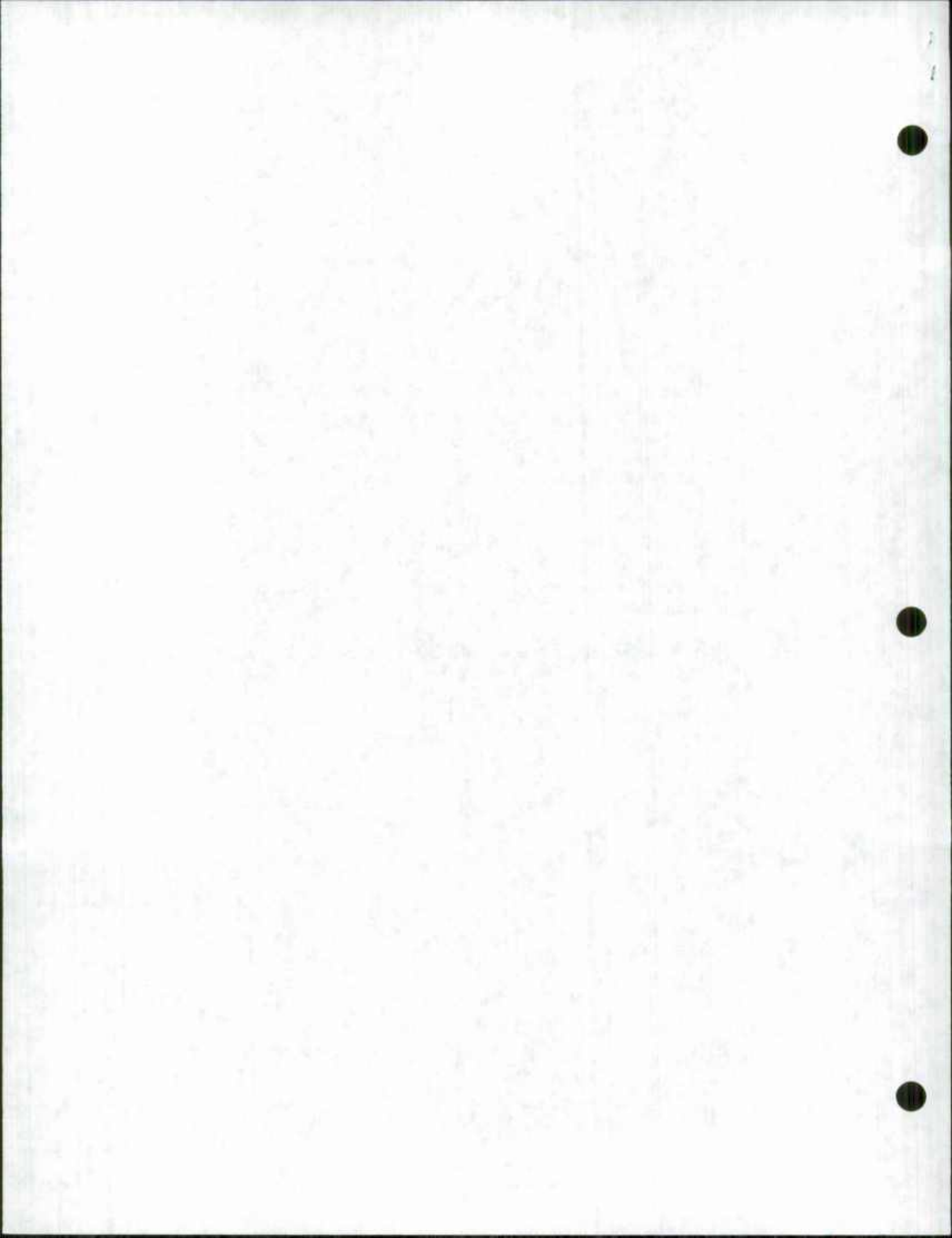
Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner

cc: Jason Traband, CNA
CE 10-04



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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(410) 260-3460 Fax: (410) 974-5338
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September 16, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

Re: A134
Calabro variance

Dear Ms. Verdery:

Thank you for providing information on the above-referenced variance application. The applicant proposes to add living space to an existing dwelling unit, the majority of which is sized to meet ADA handicap accessibility codes, with a portion located in an area recently damaged by fire. The property is 4.923 acres in size and is located in a Resource Conservation Area (RCA). The property is currently developed with a two-story dwelling, gravel driveway, garage, slate walks, bilco doors, steps, deck, and concrete pad. The applicant proposes to add 489 square feet of lot coverage in the form of a powder room, landing, entry, utility room, balcony, concrete pad, stone steps and porch, and handicap ramp; 170 square feet of concrete pads, bilco doors, and steps will be removed. Total existing lot coverage onsite is currently 18,976 square feet (8.8%). Upon completion of this project, total lot coverage will increase by 319 square feet to 19,295 square feet (8.9%). The proposed additions will be no closer to Mean High Water (MHW) than the existing dwelling unit.

Provided the lot is properly grandfathered, and provided that the Planning Commission finds that the concrete walkway meets the ADA standards found in Article X §190-58 D (3), Article XII §190-93 E (3)(c), and Article XIV §190 -107 of the Talbot County Code, we do not oppose this variance request. However, we do have the following comments on this proposal:

1. Mitigation for any disturbance in the 100-foot Buffer must be performed at a 2:1 ratio.
2. Please have the applicant provide a different symbol to represent the garden area on the site plan. At this time, due to its scale, the symbol used for the garden looks similar to the symbol in the legend that represents "proposed concrete pad."

Thank you for the opportunity to provide comments on this variance application. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 57-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 16, 2008

Ms. Elisa DeFlaux
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Black Walnut Point Stone Revetment
Consistency Report (TM 51, P 46)**

Dear Ms. DeFlaux:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The County proposes to replace or upgrade 270 linear feet of existing timber bulkhead with a stone revetment. The property is 3.378 acres in size and is designated Resource Conservation Area (RCA). After reviewing the consistency report, this office agrees that the project is generally consistent with the Talbot County Critical Area Program for the reasons outlined below:

1. Total area disturbed is 2,614 square feet.
2. The project will not impact forest, woodland, or trees; no clearing is proposed.
3. The applicant will reduce existing lot coverage onsite from 3.378 acres (100%) to 3.32 acres (98.3%).
4. Stormwater management and sediment and erosion control plans are not applicable to this project, as there is a reduction in lot coverage onsite.
5. No non-tidal wetland impacts will occur.

We have the following additional comments about this project:

1. It is unclear if the total Buffer disturbance (0.06 acres) is associated with the reduction of lot coverage within the Buffer, or if the disturbance is associated with the installation of the bulkhead. If the disturbance is related specifically to the bulkhead installation, then the County shall mitigate at a ratio of 1:1 for all Buffer disturbance.

TTY for the Deaf

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2. We recommend that the County plant the area where lot coverage was removed with native plants and vegetation.
3. Tidal wetland impacts will occur, and a permit is pending. We request that a copy of the MDE tidal wetlands permit be provided to this office once it is received.
4. The proposed project is located within a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.

Thank you again for providing information on this consistency report application. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 534-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 16, 2008

Ms. Jeanne Minner
Elkton Planning Department
Elkton Municipal Building
P.O. Box 157
Elkton, Maryland 21922-0157

**Re: Arby's Restaurant
Site Plan**

Dear Ms. Minner:

Thank you for providing supplemental information on the above referenced site plan for review and comment. The parcel is 1.26 acres in size and is designated Intensely Developed Area (IDA). The applicant proposes to create a restaurant, sidewalk, and parking area. Total lot coverage onsite will increase from 0.32 acres to 0.64 acres. The applicant has provided a revised 10% worksheet and a schematic of the proposed infiltration basin and dry swale.

Based on the information provided, we have no additional comments

Thank you for again for submitting this information. If you have any questions or concerns please contact me at (410) 260-3483.

Sincerely,

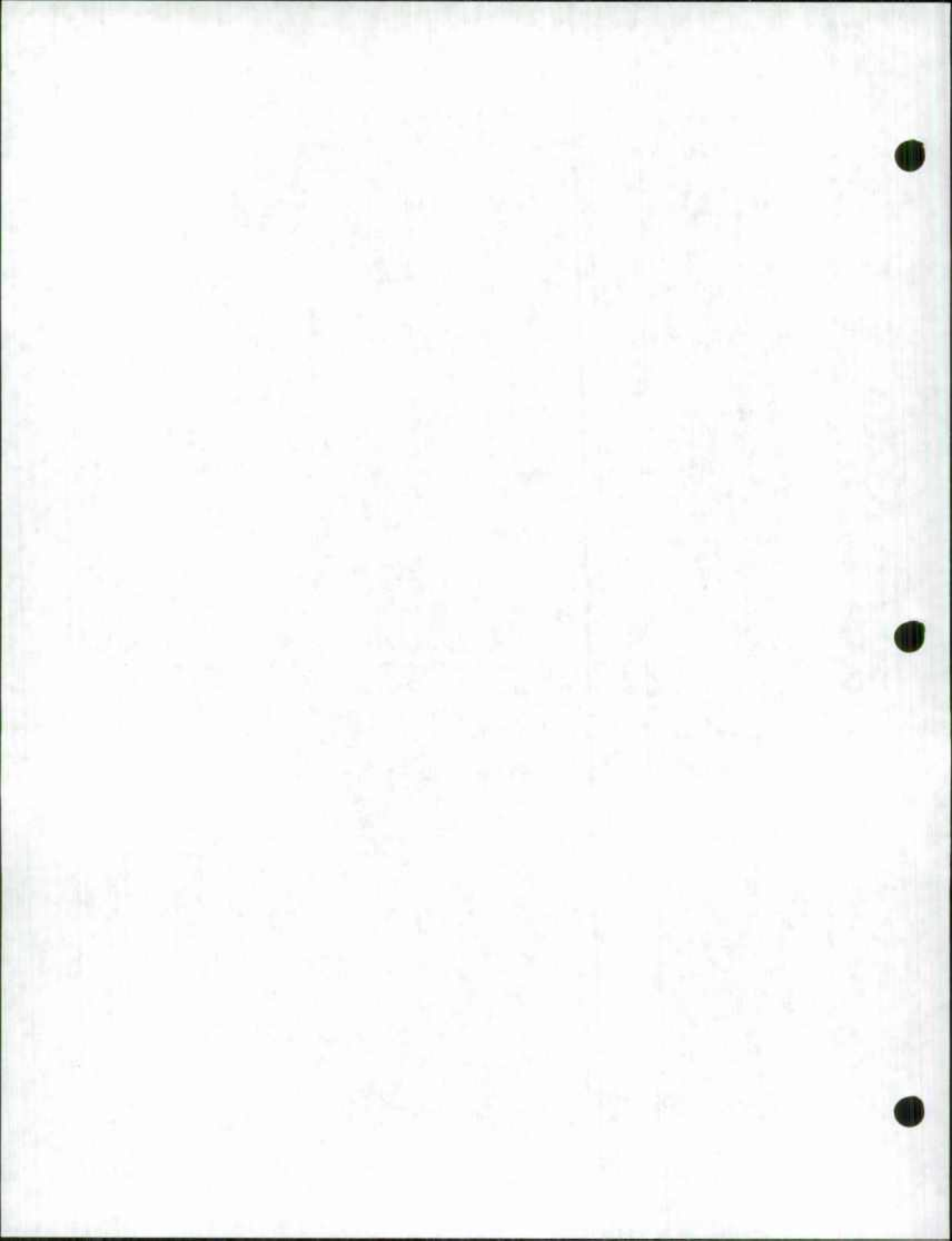
A handwritten signature in blue ink that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: EL 392-08

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 16, 2008

Paul Nevenglosky
Moffat & Nichol
2700 Lighthouse Point East, Suite 501
Baltimore, MD 21224

**Re: Maryland Port Administration Mitigation
Maisel Street**

Dear Mr. Nevenglosky:

Thank you for submitting pollutant removal credit calculations that will be used towards the Maryland Port Administration's (MPA) Institutional Plan pollutant removal requirements. The MPA proposes to remove asphalt pavement from an abandoned road area and replace it with roadside wildflowers and grass seeding. This project was originally approved by the Critical Area Commission in October 2004. The current proposal, while slightly modified, proposes no new impacts within the Critical Area. However, total credit for phosphorus removal will decrease from 3.13 pounds per year to 1.34 pounds per year.

Upon reviewing the provided material, Commission staff has determined that the pollutant removal credits from this project may be added to the MPA's Critical Area Scoreboard.

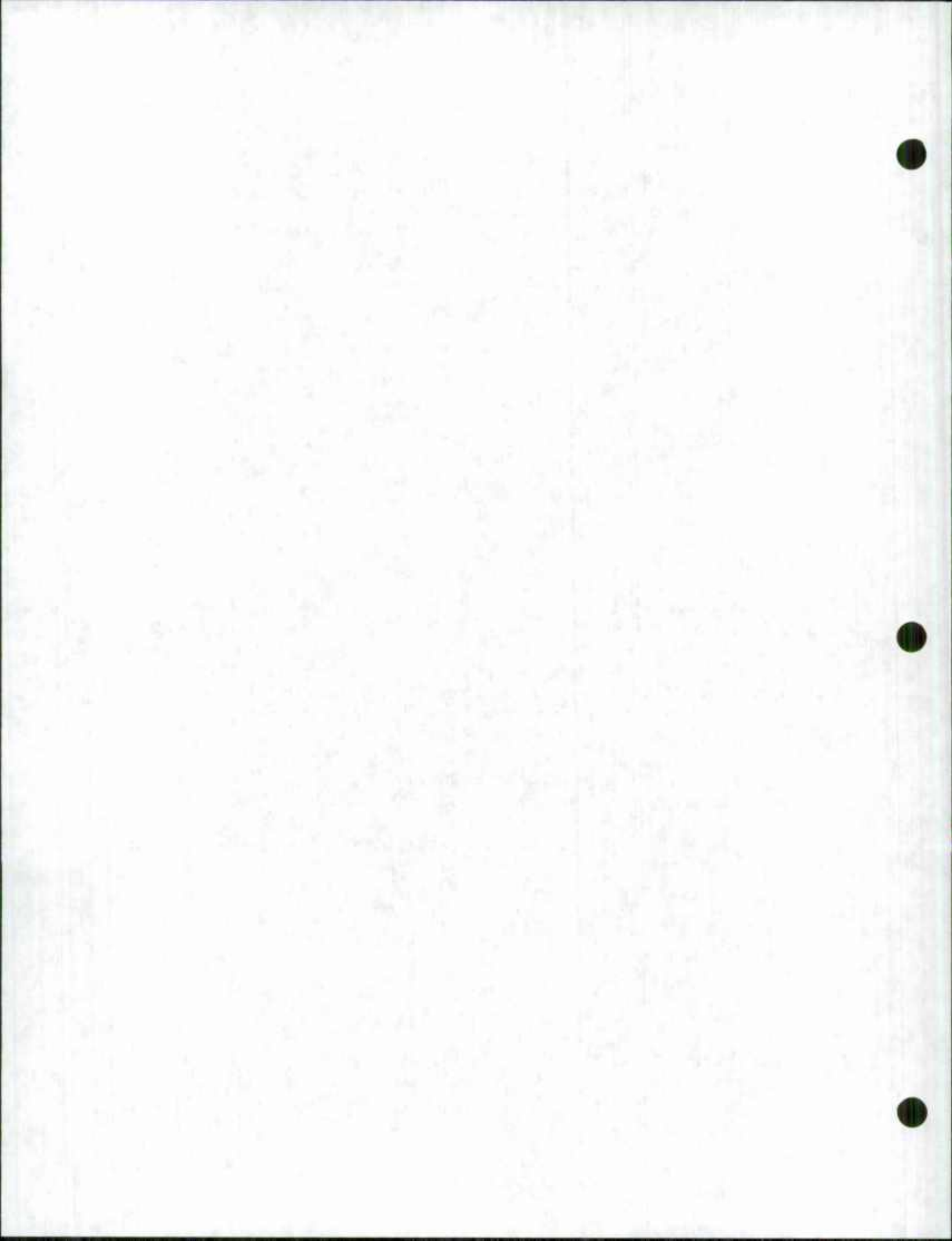
Thank you again for allowing us to review the provided information. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner

cc: Mike Bozman, MPA
LeeAnne Chandler, CAC



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 19, 2008

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
28712 Glebe Road
Easton, MD 21601

**Re: Talbot Country Club Variance
Appeal # 1474**

Dear Ms. Corkell:

Thank you for providing information on the above referenced variance request. The applicant requests a variance to reduce the existing road setback from 50 feet to 26.3 feet in order to permit the expansion of an existing pump house. The proposal includes replacement of an existing 100- square foot irrigation building with a 390-square foot building. The applicant received approval of a variance to impact nontidal wetlands for this project in December 2007. In the subsequent Technical Advisory Committee review (TAC) meeting, it was noted that the replacement pump house, as well as the existing pump house, was located within the 50-foot public road setback for Country Club Drive. Consequently, a variance to the road setback is required.

Based on the information provided, and based on our understanding that the variance for impacts to the nontidal wetland buffer was previously granted, we do not oppose this variance request. We do request that the County submit a copy of its December 2007 variance decision to this office for reference.

Thank you for the opportunity to provide comments on this variance application. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any additional questions please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 592-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 19, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: A131 Harriss
Variance**

Dear Ms. Verdery:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to construct an addition to an existing dwelling unit that is partially located within the 100-foot Buffer. The property is 15.22 acres in size and is designated as a Resource Conservation Area (RCA). The lot is currently developed with a one story brick house, shed, storage building, and gravel drive. The applicant proposes to construct an addition and porch within the 100-foot Buffer. Current lot coverage onsite is 14,236 square feet (2.71%); if the variance is granted, total lot coverage will increase by 1,532 square feet to 15,768 square feet (2.3%).

As proposed, it appears that the applicant is proposing to create an additional dwelling unit that is attached to the existing home. The applicant has submitted information that clearly shows a floor plan detailing an additional kitchen/dining area, master bedroom, master bathroom, great room, and two second-floor bedrooms. Based upon our phone conversation on September 16, 2008, it is our understanding that if the variance is approved, the applicant will be required to remove the existing kitchen as condition of approval in order to prevent the creation of a duplex on this property. However, as currently proposed, review under Natural Resources Code §8-1808.1(e)(2)(i), which addresses the requirements that an application must meet in order for a local jurisdiction to consider one additional dwelling unit per lot or parcel as part of a primary dwelling unit within the RCA, appears to be required. We note that the following requirements from Natural Resources Code §8-1808.1(e)(2)(i) must be met for an additional dwelling unit to be permitted within the RCA:

1. A. Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit;
B. Does not exceed 900 square feet in total enclosed area; and
C. Is served by the same sewage disposal system as the primary dwelling unit; or
2. A. Is located within the primary dwelling unit;

- B. By its construction, does not increase the amount of impervious surface already attributed to the primary dwelling unit; and
- C. Is served by the same sewage disposal system as the primary dwelling unit

Aside from our concerns surrounding the potential development of an additional dwelling unit within the 100-foot Buffer onsite, this office still cannot support this variance request as proposed. Currently, the applicant is proposing to construct an addition (1,532 square feet) within the 100-foot Buffer that is larger than the existing dwelling unit (1,200 square feet). While this office does not oppose modest additions to an existing dwelling unit within the Buffer, we question how constructing an addition within the 100-foot Buffer that more than doubles the size of an existing dwelling unit is achieving the Buffer goals of reducing nutrient and sediment runoff, minimizing the adverse effects of human impacts, maintaining an area of transitional habitat between aquatic and ecological communities, protecting riparian wildlife, and maintaining natural vegetation. Considering these factors, the application, as proposed, cannot meet all five of the variance standards, including the standard that this request is the minimum necessary to relieve unwarranted hardship, and that a variance of this size and scope is in harmony with the general spirit and intent of the Critical Area law and regulations. We recommend that the applicant significantly reduce the size of the proposed addition to minimize impacts to the 100-foot Buffer, and that the County deny the current request for a variance.

Finally, we have the following additional comments on the site plan submitted in conjunction this variance application as submitted:

1. It does not appear that the 100-foot Buffer is accurately depicted on the site plan. In particular, it appears that additional areas of the existing house would be located within the 100-foot Buffer, due to fact that Harris Creek juts inward on the southeast side of the property. Please have the applicant resubmit this application with an accurate depiction of the 100-foot Buffer.
2. Please have the applicant provide a clear vicinity map for reference.

Thank you for the opportunity to provide comments on this administrative variance request. When additional information is provided, and the County has determined whether this will be reviewed under provisions for additional dwelling units, we may have additional comments. Please consider this determination as a request for additional information under COMAR 27.03.01.02.C. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: TC 482-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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September 19, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

**Re: Trippi Subdivision and Line Division
TM 221, P 96**

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision request. The applicant is proposing to develop a major 2-lot subdivision with a private road and lot line abandonment; the proposed line revision will occur outside of the Critical Area. The parcel is 46.340 acres in size, with 41.524 acres located within the Critical Area and designated as Resource Conservation Area (RCA). Total existing forest coverage onsite within the Critical Area is 7.50 acres (18.07%). Total existing lot coverage on Lot 1 is 13,055 square feet (3.2%), while total existing lot coverage on Lot 2 is 5,781 square feet (0.4%).

Based on the information provided, we have the following comments on this subdivision and line revision application:

1. The applicant is permitted two development rights on this parcel. Upon completion of this subdivision, the applicant will have exhausted all available development rights.
2. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance

with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

3. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement, as stated in Chapter 119 of the 2008 Laws of Maryland. This element is of particular concern, as the Sewage Disposal Areas for all Lot 2 is located within the 200-foot Buffer area.
4. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. In addition, the site plan mentions that reasonable effort will be made to limit construction within Forest Interior Dwelling Bird (FIDS) habitat area. If FIDS Habitat is present, a Habitat Protection Plan must be submitted to this office for review and comment, as required in §190-93 E(8)(d) of the Talbot County code. This plan must be submitted prior to preliminary plat approval.
5. Mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing and meets the site design guidelines within the Critical Area FIDS Guidance Manual.
6. Talbot County soil maps reveal that the property is partially located in hydric erodible soils (Othello). It does not appear that the 100-foot Buffer has been expanded to include these areas. As per §190-93E(b) of the Talbot County Code, the 100-foot Buffer shall be expanded for areas of hydric soils that are located contiguous to the 100-foot Buffer.
7. Please note that, on Lots 1 and 2, the 100-foot and Expanded Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. Please have the applicant clarify this note on the site plan to ensure that the Buffer is established on both lots.
8. We recommend that the County verify the use of existing structures onsite. In particular, we have concerns surrounding the existing chapel with patio and deck.

Thank you for the opportunity to provide comments on this subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: TC 517-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 19, 2008

Ms. Elisa DeFlaux
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Bellevue Community Park Playground Expansion
Consistency Report**

Dear Ms. Verdery:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The applicant proposes to remove existing playground equipment installed on pervious engineered wood fiber. The property is 0.79 acres and is designated Limited Development Area (LDA). Total disturbance is 3,200 square feet. After reviewing the consistency report, this office agrees that the project is generally consistent with the Talbot County Critical Area Program for the reasons outlined below.

1. No impacts to the 100-foot Buffer are proposed.
2. Approximately 21% of the site is composed of existing forest. No clearing will occur during the course of this project.
3. Existing lot coverage on-site is 1.25 acres (33%). No new lot coverage is proposed.
4. The project is exempt from stormwater management as well as sediment and erosion control plans.
5. There are no tidal or non-tidal wetland impacts.
6. There are no Habitat Protections Areas onsite.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resources Planner
cc : TC 532-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 22, 2008

Mr. Anthony DiGiacomo, AICP
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

Re: Cecil County Critical Area Ordinance Text Amendments

Dear Mr. DiGiacomo:

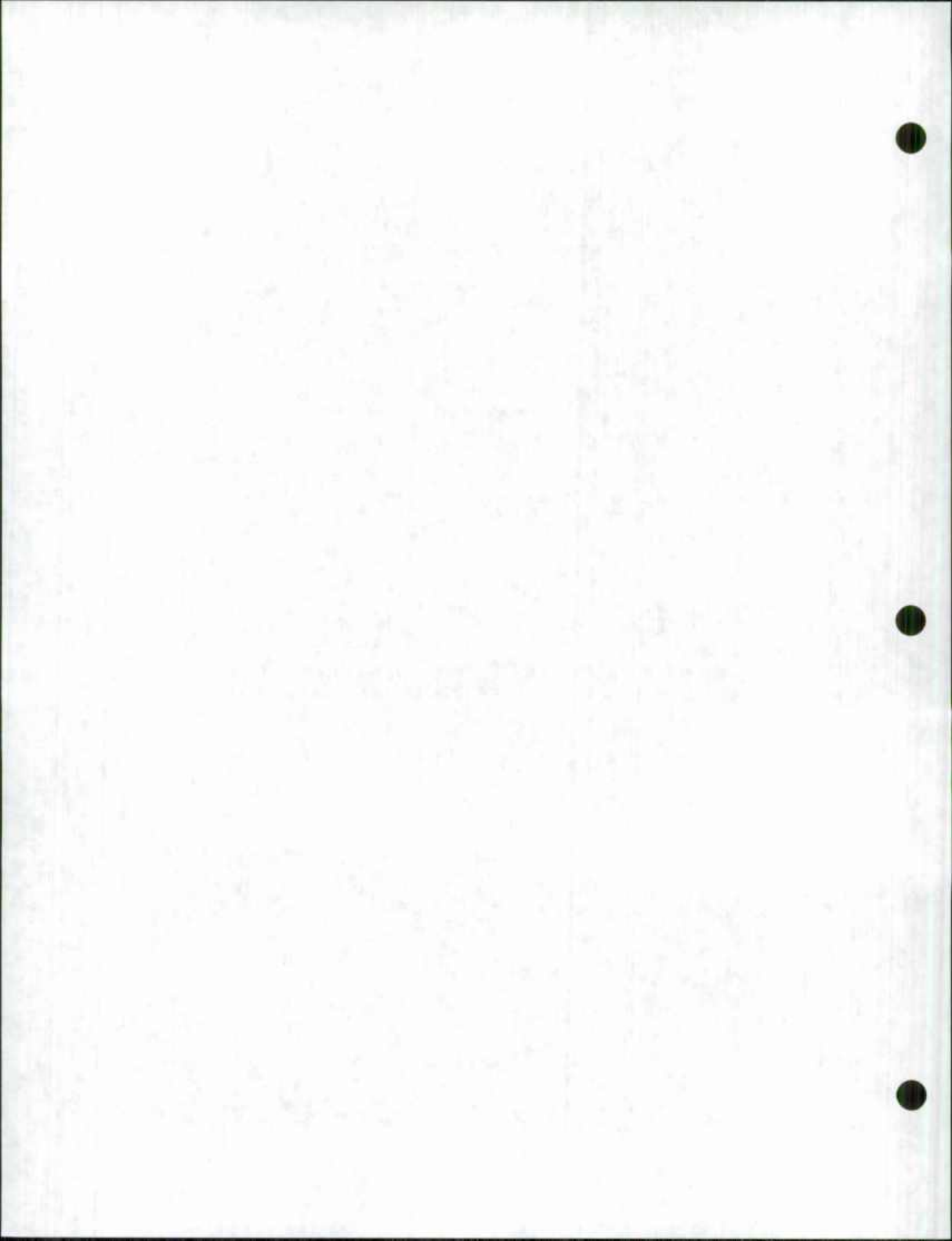
The purpose of this letter is to provide an update regarding the Commission's processing of the above-referenced text amendments to the Cecil County Critical Area Program. The text changes creates standards for variances in new subdivisions located in Buffer Exemption Areas (Cecil County Zoning Ordinance §195) and language addressing current scientific standards for the protection of Habitat Protection Areas (§200). On September 19, 2008, Chair McHale determined that the proposed text amendments will be processed as a refinement to the Cecil County Critical Area Program.

The proposed text amendment has been scheduled for review at the October 1, 2008 Critical Area Commission meeting in Crownsville. I will forward both a copy of the meeting agenda as well as a copy of my staff report as soon as they are available. If you have any questions, feel free to contact me at (410) 260-3483. Thank you for your help.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: file



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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September 22, 2008

Mr. Robert Cuthbertson
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Baltimore City

Dear Mr. Cuthbertson:

I am writing to provide comments on the following projects located in Baltimore City:

200861323/08-WL-1195: Moorings@Canton HOA INC

In the Patapsco River, southwest of Lakewood Avenue and Boston Street, the applicant proposes to construct a 75-foot long by 12.5-foot wide Baltimore City Promenade section within a maximum of 13.5 feet channelward of Mean High Water (MHW), and to construct a 590-foot long by 12-foot wide section of the Baltimore City Promenade within a maximum of 13.5 of MHW. The purpose is to extend the Baltimore City Promenade.

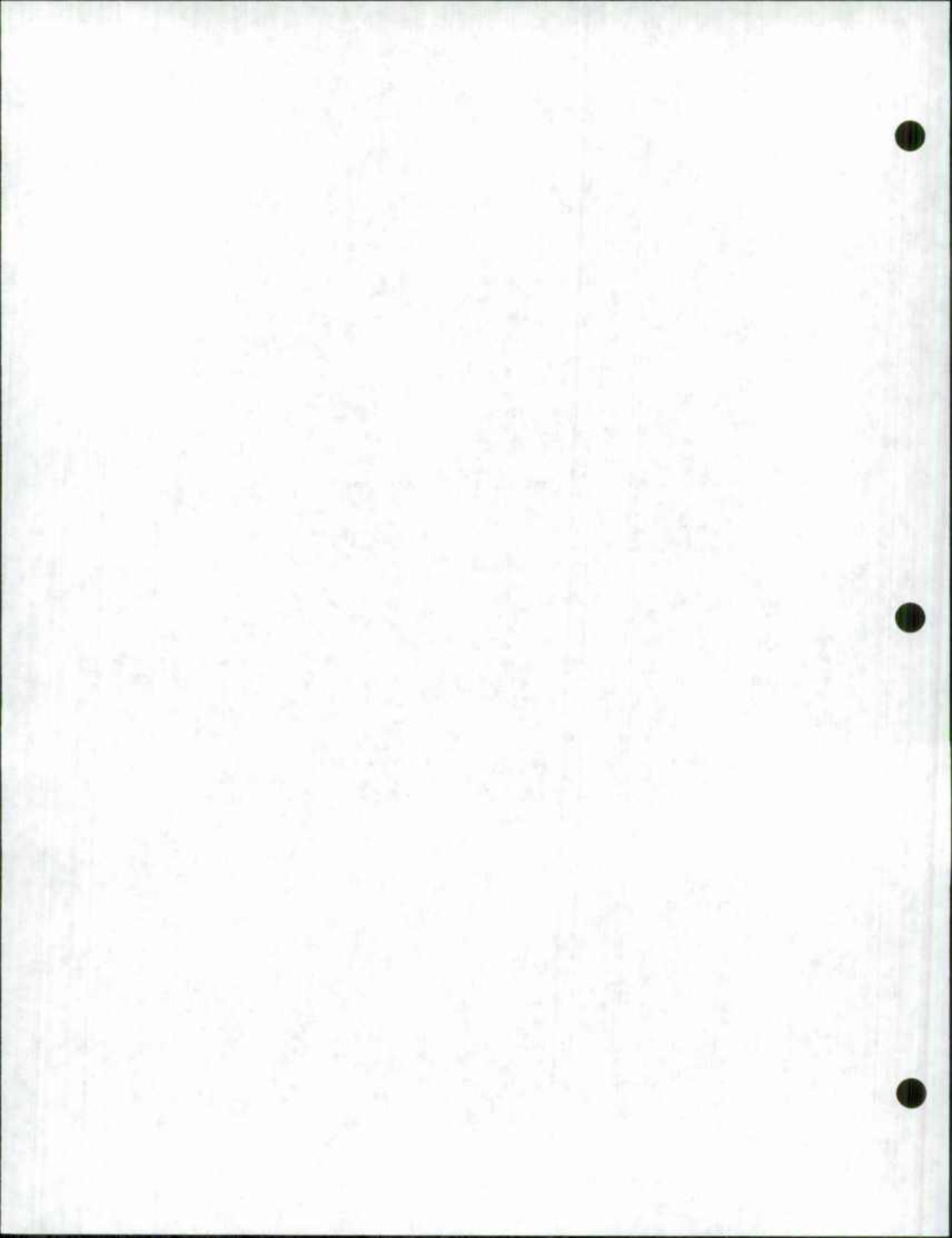
This projected is located within the Waterfront Revitalization Area and is designated as an Intensely Developed Area (IDA). The Baltimore City Critical Area Program has specific provisions pertaining to the construction of the Promenade within this area. The applicant should refer to the Baltimore City Critical Area Management Program, §III.B for more information, and should coordinate all activities with the City of Baltimore Department of Planning.

Thank you for the opportunity to provide comments on the referenced projects. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resources Planner

cc: Duncan Stuart, City of Baltimore Department of Planning
file



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

September 22, 2008

Lynn Thomas
Town of Easton
14 South Harrison Street
P.O. Box 520
Easton, MD 21601

Re: Heartfields at Easton

Dear Mr. Thomas :

Thank you for providing supplemental information on the above-referenced site plan. The applicant has provided revised 10% worksheets that adequately addresses pollutant removal onsite, and a copy of the Department of Natural Resources (DNR) Wildlife and Heritage Division letter evaluating the property to determine if there are any threatened or endangered species onsite.

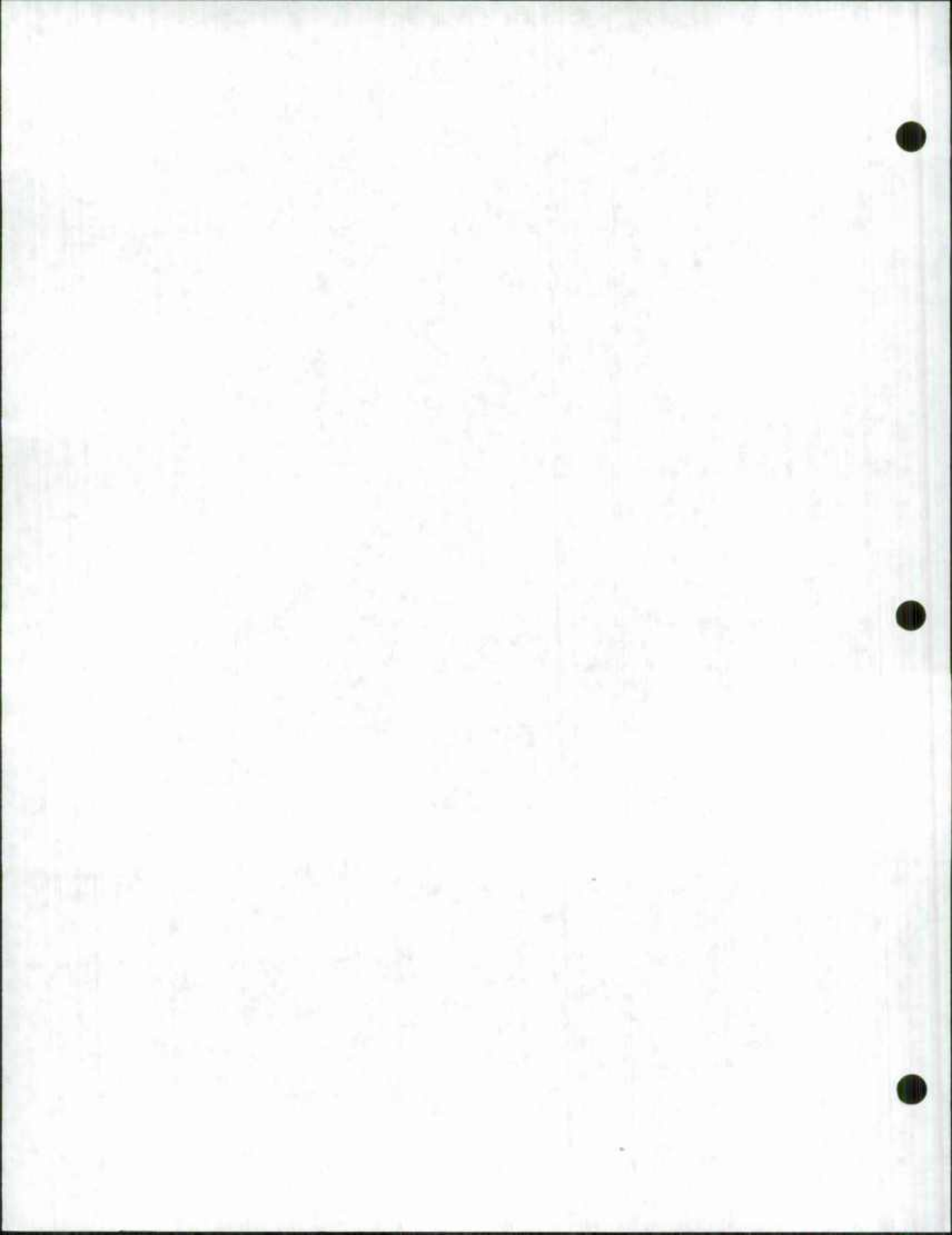
Based on the information provided, we have no additional comments on this site plan:

Thank you again for providing us the opportunity to review this request. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: EA 224-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 23, 2008

Mr. Anthony DiGiacomo
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

**RE: Bohemia Crossing Subdivision
TM 54, Parcels 11 and 33**

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above referenced minor subdivision. The applicant is proposing to create an 18-lot subdivision. The site area is 50.25 acres, of which 6.19 acres is located within the Critical Area and designated Resource Conservation Area (RCA). No development is proposed within the RCA portion of the project.

Based on the information provided, we have the following comments:

1. The applicant states that a 110-foot Buffer is provided. However, it is difficult to delineate the Buffer on the site plan. Please have the applicant revise the site plan to more clearly depict the 110-foot Buffer.
2. The 110-foot Buffer must be expanded for steep slopes. Applicants must extend the Buffer for steep slopes according to the Cecil County Zoning Ordinance §196.2.b. and COMAR 27.01.09.01C(7), which states that "...In the case of contiguous slopes 15 percent or greater, the Buffer shall be expanded four feet for every one percent of slope, or the top of the slope, which is greater in extent." In addition, the 110-foot Buffer must be expanded for any hydric or highly erodible soils located contiguous to the Buffer.
3. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement, as stated in Chapter 119 of the 2008 Laws of Maryland.

4. The site plan reveals the location of an intermittent stream, taken from the USGS Quad maps. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Commission." As of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Please have the applicant field verify the stream.
5. Based on the development density restrictions in the RCA of one dwelling unit per twenty acres, the Critical Area portion of the site is limited to one dwelling unit, which currently exists. A note should be included on the plat and Environmental Assessment that the development rights for the RCA are exhausted.
6. GIS data reveals that the property is located in a potential area where a species of concern is located. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. If future development is proposed within the RCA, a site-specific survey of the RCA should be done to determine whether these species occur near the proposed development. If species are found, the applicant will be required to prepare a revised Environmental Assessment (EA) that includes habitat protection, provisions per proposed §197.12b(1) and §200.2. A copy of the revised EA should be referred to this office for review and comment.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: CE 702-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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September 24, 2008

Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: Velo Variance (Revised)
518-08

Dear Ms. Renshaw:

Thank you for providing additional information on the above-referenced variance application. The applicant has submitted plans that are a revision to your office's September 10, 2008 submittal for this request. The revised plans propose a driveway configuration that provides access to Radcliffe Avenue instead of North Harbor Road. It is our understanding that these plans were submitted to this office for review per your office's request. The comments below are based on the review of this revised plan.

The applicant proposes a variance to allow for the construction of a single-family dwelling, garage, walkway and driveway on a grandfathered lot that is located entirely within the 100-foot Buffer. The site is 9,486 square feet in size and is designated as an Intensely Developed Area (IDA). Currently, the site is undeveloped. If the variance is granted, total lot coverage onsite will increase to 1,684 square feet (17.7%). The proposed development will not encroach closer to the shoreline than 25 feet. The applicant proposes to mitigate for disturbance within the 100-Buffer by planting 9 canopy trees, 8 understory trees, and 12 shrubs (3,292 square feet of mitigation). The applicant is meeting 10% requirements by installing a bioretention facility. Development will encroach no closer than 25 feet to the shoreline.

Provided that Board of Appeals finds that the applicant has met each of the variance standards detailed within the Town of St. Michaels Zoning Ordinance, we do not oppose the granting of this variance. However, we do have the following comments:

- It appears that portions of the 25-foot Buffer are not fully vegetated. Commission staff recommends that the applicant fully establish the 25-foot Buffer in native vegetation. This should be required as a condition of approval for this variance.

Thank you for the opportunity to provide comments on this variance application. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any additional questions please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in dark ink that reads "Nick Kelly". The signature is written in a cursive, slightly slanted style.

Nick Kelly

Natural Resource Planner

cc: ST 789-05

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 24, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: A133
Williams Variance**

Dear Ms. Verdery:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to construct a deck within the 100-foot Buffer. The property is 34.04 acres in size and is designated as a Resource Conservation Area (RCA). The lot is currently developed with a single-family dwelling unit, driveway, sidewalk, detached garage, shed, pump house, patio, and pool. The applicant proposes to a 432 square foot deck; the deck will be located no closer to Mean High Water (54.75 feet) than the existing house (50.00 feet) Current lot coverage onsite is 32,968.5 square feet (2.2%); if the variance is granted, total lot coverage will increase by 432 square feet to 33,400.5 square feet (2.25%).

While this office does not oppose modest additions to an existing dwelling unit within the Buffer, this office cannot support this variance request as proposed. A variance application must meet all five variance standards in order to be approved. In reviewing the proposal, we have concerns about whether a deck over 400 square feet in size is the minimum necessary to relieve unwarranted hardship, particularly considering the fact that the applicant enjoys the use of over 1,100 square feet of patio and pool area within the 100-foot Buffer. Furthermore, we question whether a deck of this size and scope is in harmony with the general spirit and intent of the Critical Area law and regulations. We recommend that the applicant significantly reduce the size of the proposed addition to minimize impacts to the 100-foot Buffer, and that the County deny the current request for a variance. Commission staff may be able to support a revised and minimized version of this request.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nick Kelly". The signature is fluid and cursive, with the first name "Nick" and last name "Kelly" clearly distinguishable.

Nick Kelly

Natural Resource Planner

cc: TC 557-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 24, 2008

Mr. Jim Stasz
M-NCPPC – Planning Department
Countywide Planning Division
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

**Re: Broadwater Estates Site Plan, Lot 6
CP-08003**

Dear Mr. Stasz:

Thank you for providing information on the above referenced site plan. The property is 22,262 square feet in size and is designated a Limited Development Overlay (LDO). The property is currently undeveloped; the applicant proposes to construct a single-family dwelling unit and driveway. Total proposed lot coverage onsite is 3,207 square feet (14.4%). The applicant proposes to clear 2,731 square feet of forested area, leaving 11,805 square feet of forest coverage onsite (53.02%).

Based on the information provided, we have the following comments on this conservation plan:

1. The site plan must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Prince George's County approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Prince George's County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Prince George's County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in

accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

2. The site plan states that anadromous fish propagation waters and waterfowl concentration areas are located near the site. However, the site plan for Lots 1 and 2 of Broadwater Estates states that no anadromous fish propagation waters or waterfowl concentration areas are located near the site (CP-08004). Please have the applicant clarify this issue. In addition, please have the applicant submit to this office a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. The applicant must address all recommendations from WHS for protection of any species located on the parcel. Time of year restrictions for shoreline work may apply.
3. Mitigation for forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing. This mitigation should be provided onsite to the extent possible, as there appears to be room available for planting. Collection of fee-in-lieu when planting space is available onsite is no appropriate.

Finally, please note that 2008 changes to the Critical Area law took effect on July 1, 2008. As a component of these changes, all jurisdictions are now required to apply all provisions of the law notwithstanding any provision or lack of a provision in a local law or ordinance.

Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: PG 548-08

Cecilia Lammers, M-NCPPC – Planning Department

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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September 24, 2008

Mr. Jim Stasz
M-NCPPC – Planning Department
Countywide Planning Division
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

**Re: Broadwater Estates Site Plan 2 Lot Subdivision
CP-08004**

Dear Mr. Stasz:

Thank you for providing information on the above referenced site plan. The applicant is proposing to develop two lots; a single-family dwelling unit, garage and driveway are proposed on each lot. The property is 1.57 acres in size and is designated a Limited Development Overlay (LDO). The property is currently undeveloped. Total proposed lot coverage onsite is 0.12 acres (7.6%). No forest clearing is proposed.

Based on the information provided, we have the following comments on this conservation plan:

1. The site plan must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Prince George's County approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Prince George's County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Prince George's County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

2. The site plan states that no anadromous fish propagation waters or waterfowl concentration areas are located near the site. However, the site plan for Lot 6 of Broadwater Estates states that anadromous fish propagation waters or waterfowl concentration areas do exist near the site (CP-08003). Please have the applicant clarify this issue. In addition, please have the applicant submit to this office a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. The applicant must address all recommendations from WHS for protection of any species located on the parcel. Time of year restrictions for shoreline work may apply.
3. Please have the applicant provide the amount of forest coverage located onsite. The applicant must meet the 15% afforestation requirement (0.23 acres) and provide the appropriate mitigation for any forest clearing.
4. Please have the applicant list all structures proposed to be removed from the site. We recommend that the applicant remove the existing steps and pump house from the 100-foot Buffer on Lot 2.
5. The site plan reveals two piers located on Lot 2. An applicant is permitted only pier per lot, as stated in Natural Resources Code §8-1808.5(d). Please have the applicant remove one pier from Lot 2.

Finally, please note that 2008 changes to the Critical Area law took effect on July 1, 2008. As a component of these changes, all jurisdictions are now required to apply all provisions of the law notwithstanding any provision or lack of a provision in a local law or ordinance.

Thank you for the opportunity to provide comments. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner

cc: PG 564-08
Cecilia Lammers, M-NCPPC – Planning Department

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
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September 24, 2008

Michael Bozman
Permits & Special Projects Manager
Maryland Port Administration
Engineering Department
2310 Broening Highway
Baltimore, MD 21224

**Re: Maryland Port Administration
New Fuel Island, Above Ground Storage Tanks, and Storage Sheds
Dundalk Marine Terminal**

Dear Mr. Bozman:

Thank you for providing information on the above referenced project, which will require full review by the Critical Area Commission. In reviewing the materials submitted, we cannot accept this application as a full and complete submittal at this time. Attached to this letter is a copy of our project application checklist, which lists the information required by this office in order to schedule it before the Critical Area Commission. Please review this checklist to ensure that all information has been provided, and please submit this information to our office at your earliest convenience. In particular, we note that the following information is missing:

1. The applicant must include a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite.
2. The applicant must obtain review by the Maryland Historic Trust (MHT).
3. Permits from the Maryland Department of the Environment (MDE) and the Army Corps of Engineers for any impacts to tidal or nontidal wetlands, if necessary.
4. Permits from MDE for Sediment and Erosion Control as well as Stormwater Management, or correspondence from MDE verifying that these permits are in the process of being issued.
5. Information as to why the applicant cannot meet 10% pollutant removal requirements onsite and must use the MPA Institutional Management Plan.

Please note that the submittal deadline for the December Critical Area Commission Meeting agenda is October 22, 2008. If you have any questions or concerns about this matter, please feel free to contact me at (410) 260-3483.

Thank you in advance for your help with this application. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: 41-08
Kevin Dietz, WBCM

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 2, 2008

Duncan Stuart
City of Baltimore Planning Commission
Department of Planning
417 E. Fayette Street, 8th Floor
Baltimore, Maryland 21202-3416

**Re: The Moorings at Lighthouse Point
Building Permit, Case # 246**

Dear Mr. Letteron:

Thank you for providing information on the above referenced building permit. The applicant is proposing to remove an existing floating promenade and replace it with a cantilevered promenade. This is a redesign of a previously proposed promenade for this site; the newly proposed promenade will be located waterward from the bulkhead, thus reducing lot coverage impacts to the 100-foot Buffer. The parcel is 5.126 acres in size and is designated Intensely Developed Area (IDA). Total existing lot coverage onsite is 4.554 acres; the applicant proposes to remove 0.97 acres of lot coverage onsite to reduce total lot coverage to 3.85 acres. The applicant is meeting the 10% pollutant removal requirement onsite through the reduction in lot coverage. In addition, the area of the original proposed promenade will remain vegetated, and the applicant will pay \$84,086.35 as an offset fee for lot coverage located within the 100-foot Buffer.

Based on the information provided, we have the following comment on this project:

1. Please have the applicant delineate the 100-foot Buffer on the site plan. The 100-foot Buffer shall be delineated from the edge of the bulkhead, and not from the edge of the newly proposed Promenade area.
2. The vegetated area of the 100-foot Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §III.B of the Baltimore City Critical Area Management Program. Please add a note referencing this requirement to the building permit.

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Thank you for providing the information on 10% calculations for this building permit. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: BA 559-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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October 6, 2008

Arnold Norden, Maryland Park Service
Maryland Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

**Re: Elk Neck State Park, Chesapeake Gateway Signs
2008-DNR-089**

Dear Mr. Norden:

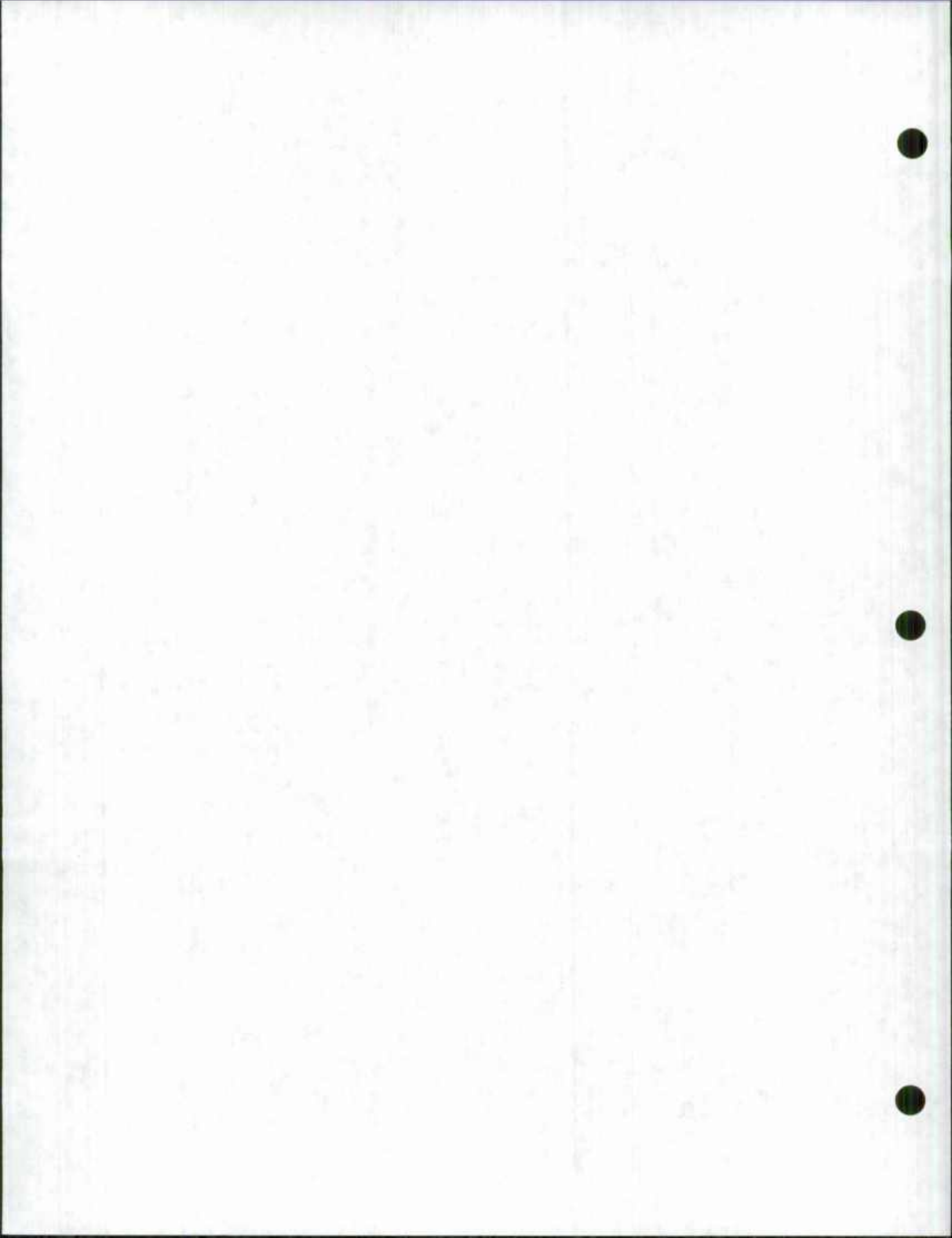
Thank you for providing information on the above referenced project, which will require full review by the Critical Area Commission. At this time, all materials have been submitted, and the project will be placed on the November 5, 2008 Critical Area Commission Meeting agenda. A copy of the meeting agenda and staff report will be forwarded to your office once it is available.

Thank you again for your help with this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: file



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 6, 2008

Arnold Norden, Maryland Park Service
Maryland Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

Re: North Bay Environmental Education Camp Giant Swing

Dear Mr. Norden:

At its October 1, 2008 meeting, the Critical Area Commission approved the proposed giant swing at the North Bay Environmental Education Camp, which is located within Elk Neck State Park. The project was approved with the following conditions:

1. Mitigation for disturbance to the 100-foot Buffer will be provided at a 3:1 Ratio or 660 square feet. Prior to the start of construction, the Department of Natural Resources will submit a Buffer Management Plan to Commission staff for review and approval.
2. The Department of Natural Resources will replant the area of removed impervious surface with native vegetation. As required by Code of Maryland Regulations, this motion is based on the following considerations:

These conditions will be satisfied once a planting plan with the appropriate mitigation and re-vegetation of the removed impervious surface area is submitted to this office for review and approval. Attached is a copy of the planting agreement form.

Thank you again for your help in providing information for this project. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner

cc: 17-08

Enclosure

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
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October 6, 2008

Duncan Stuart
City of Baltimore Planning Commission
Department of Planning
417 E. Fayette Street, 8th Floor
Baltimore, Maryland 21202-3416

Re: Washington Boulevard Widening and Reconstruction

Dear Mr. Stuart:

At its October 1, 2008 meeting, the Critical Area Commission unanimously approved the City of Baltimore's proposed project to widen and reconstruct Washington Boulevard between the I-95 corridor and Monroe Street. Please note that should any changes to the site plan be proposed in the future, additional review and approval by the Commission will be required.

Thank you for all your help in providing information for this project and for taking the time to come to our Commission Meeting to help assist with the presentation. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly

Natural Resource Planner
cc: BA 771-03

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 6, 2008

Mr. Anthony DiGiacomo
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

**Re: Elk Nest Subdivision
Tax Map 31, Parcels 666, 667**

Dear Mr. DiGiacomo:

Thank you for providing information on the above-referenced subdivision request. The applicant proposes to create a 26-lot subdivision, with 19 lots located within the Critical Area. Total site area is 18.73 acres, with 14.70 acres located within the Critical Area and designated Limited Development Area (LDA).

Based on the information provided, we have the following comments on this subdivision request:

1. The subdivision plat must contain more detailed information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Cecil County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Cecil County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Cecil County and

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implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

2. Please provide the amount of existing forest coverage onsite. Per §200 of the Cecil County Zoning Ordinance, the applicant must provide 15% afforestation is required within the Critical Area onsite.
3. Based on aerial photography, it appears that a significant amount of clearing will occur as a result of this development. Per §200 of the Cecil County Zoning Ordinance, if up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation. Please have the applicant provide information on how this mitigation will be achieved onsite.
4. The site plan reveals the location of an intermittent stream onsite. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Commission". As of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, unless and until the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only methodology provided under the law for the identification of streams. Please have the applicant provide information on how this stream was delineated onsite to ensure that this requirement has been met.
5. It appears that the applicant is providing only a 50-foot Buffer around the intermittent stream. The applicant must provide a 110-foot Buffer around all intermittent streams, as stated in Cecil County Ordinance Section 196.
6. Upon revising the 110-foot Buffer delineation around the intermittent stream, it appears that the building envelopes of Lot 1 and Lot 26, the proposed stormwater management pond, and portions of the proposed right-of-way are located within the 110-foot Buffer, which would thus require variances. New lots created after the County's Critical Area Program adoption date must fully comply with all of the County's Critical Area regulations. Therefore, the applicant must reconfigure the lot lines, stormwater management pond location, and right-of-way to avoid the need for any variances.
7. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare,

threatened, or endangered species location onsite. A copy of the letter should be submitted to this office.

8. If impacts to Habitat Protection Areas are proposed, the applicant will need to revise their Environmental Assessment per the recent revisions to the Cecil County Zoning Ordinance. A copy of the Environmental Assessment should be forwarded to this office for review and comment.

Thank you for the opportunity to provide comments on this subdivision request. Please forward a copy of the revised Preliminary Subdivision and accompanying information once it is received. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: CE 447-04

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ron Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 8, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

Re: **Reese Line Revision
TM 39, P29 & 196**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced lot line revision. The applicant proposes to revise lot lines between two parcels (Tax Parcel 196, Tax Parcel 29). Total acreage is 36.233 acres and the parcels are designated Resource Conservation Area (RCA). Upon completion of this line revision, Tax Parcel 196 will increase in size from 0.588 acres to 25.885 acres, while Tax Parcel 29 will decrease in size from 35.645 acres to 10.348 acres. Total existing lot coverage on Tax Parcel 196 is 81,420 square feet (7.2%), while Tax Parcel 29 is undeveloped. Total forest coverage onsite is 1.625 acres (4.4%).

Based on the information provided, we have the following comments on this proposed subdivision:

1. The Tax Parcel numbers appeared to be reversed on the black and white site plan, as compared to the aerial photography site plan. Please have the applicant correct this discrepancy.
2. The applicant is proposing a line revision that provides waterfront access to Tax Parcel 196, which is currently landlocked. Talbot County requires that any activity in the RCA shall "conserve, protect, and enhance the overall ecological values of the Critical Area, its biological productivity, and its diversity" [§190-15.A(2); COMAR 27.01.02.05]. In addition, COMAR 27.01.10.01 states that a local jurisdiction's program shall require that all project approvals are consistent with Critical Area Law, including that land use policies are established that accommodate growth but also acknowledge that the number, movement, and activities of a person in the Critical Area can create adverse impacts. As proposed, the revision of lot lines creates an intensification of use of the shoreline and

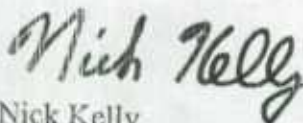
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- within the Buffer, contrary to the spirit and intent of the Critical Area Law and Criteria. Creating waterfront access for a parcel that previously was surrounded by land should not be permitted by the County. Please have the applicant revise the proposed line revision to eliminate waterfront access for Parcel 196.
3. Talbot County land records reveal that the primary structure on Parcel 29 was constructed in 2005. However, the site plan reveals a guest house on Parcel 29 that does not appear to meet the guidelines for an accessory dwelling unit, as found in Natural Resources Article §8-1808.1(e)(2). Please have the applicant explain the history of this site to clarify this issue, including concerns about the number and assignment of development rights to dwelling units on the property.
 4. The applicant must provide an additional 3.81 acres of forest coverage onsite to meet the 15% afforestation requirement.
 5. It appears that the 100-foot Buffer has been expanded for hydric or highly erodible soils. Please delineate this line as the "Expanded Buffer" on the site plan. In addition, please provide soil types on the site plan to ensure that the Buffer was properly expanded for all occurrences of hydric or highly erodible soils.
 6. The site plan states that the proposed line revision will require a waiver to cross the expanded Buffer for hydric soils to access potential building sites and perc locations. The proposed line revision should be created so that the need for a variance is not required.
 7. The 100-foot and expanded Buffer must be fully forested, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. Please add a note referencing this requirement to the plat.
 8. Please have the applicant identify on the site plan the types of structures that are proposed to be removed from Tax Parcel 196.
 9. The site plan states that the applicant "reserves the right to reconfigure the Buffer expansion in areas if accurate topography confirms the mapped soils overlay slopes less than 5%." This office notes that the 100-foot Buffer shall also be expanded if other areas of hydric or highly erodible soils are located contiguous to the 100-foot Buffer, as per §190-93E(b) of the Talbot County Code.
 10. Please have the applicant forward to this office a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite.

Thank you for the opportunity to provide comments on this lot line revision. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
ec: TC 518-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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Memorandum

To : Roland Limpert
Maryland Department of Natural Resources

From: Nick Kelly, Critical Area Commission

Re: **Maryland Port Administration**
Clearinghouse: MD20080724-0798 – Millenium Inorganic Chemical

Dear Mr. Limpert:

Thank you for providing information for the above-referenced project. The Maryland Port Administration proposes to convey 1.371 acres of property from the north side of Kembo Road and the west side of the Patapsco River to Millenium Inorganic Chemicals. It is our understanding that Millenium Inorganic Chemicals has encroached onto the MPA's property, thus necessitating the conveyance of this property.

Based on a conversation with Millenium, it is our understanding that Millenium was performing work around a clay mounded area near the existing berm onsite and wished to install a clay berm to protect it and correct existing stormwater management issues. All work was done at least 300 feet from the shoreline, and no clearing was needed. Provided that the applicant receives the appropriate stormwater management and sediment and erosion control permits from Anne Arundel County, we do not have any comments on this conveyance.

Thank you again for providing information on this project. If you have any questions, please contact me at 410-260-3483.

cc: Linda Janey, MDP

Martin O'Malley
Governor

Anthony G. Brown
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Executive Director

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October 10, 2008

Lillian Lord
Administrator/Clerk-Treasurer
100 North Morris Street
Oxford, MD 21654

**Re: Kimberly Oxford Investment
Building Permit**

Dear Ms. Lord:

Thank you for providing information on the above-referenced building permit. The applicant proposes to construct a patio (within the 100-foot Buffer), brick pad, and brick walkway. The property is 24,072 square feet in size, is designated Intensely Developed Area (IDA), and is located within a Buffer Exemption Area (BEA). The property is currently developed with a single-family dwelling unit, garage, driveway, concrete walkway, and air conditioning unit. Total lot coverage onsite is currently 5,978 square feet (24.83%); the addition of the patio, pad, and walkway will increase lot coverage by 655 square feet to 6,633 square feet (27.55%).

Based on the information provided, we have the following comments on this building permit:

1. The applicant shall provided mitigation at 2:1 ratio for any new impervious surface located within the 100-foot Buffer.
2. That applicant must meet 10% phosphorus reduction requirements onsite. Attached is a copy of guidance for meeting 10% requirements on a single-family lots that may be useful.

Thank you for providing information on this building permit request. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in black ink that reads "Nick Kelly". The signature is written in a cursive, slightly slanted style.

Nick Kelly

Natural Resource Planner

cc: OX 558-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 15, 2008

Ms. April Stehr
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard, Suite 430
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Talbot County

Dear Ms. Stehr:

I am writing to provide comments on the following project located in Talbot County:

200863031/09-WL-0055: Helen Connolly, Et. al

In the Wye East River, Quarter Cove, and Gross Creek in Easton, the applicant proposes to emplace 13,665 feet of stone revetment within a maximum of ten feet channelward of the Mean High Water Line (MHL), emplace 3,073 feet of low profile stone edging a maximum of six feet channelward of an eroding marsh edge and MHL. The purpose of the project is shore erosion control.

The Talbot County Critical Area Program recommends nonstructural shore protection measures whenever practical. Therefore, we would recommend a nonstructural shore protection measure for this site, if possible. However, based upon a site visit in April 2008 regarding the proposed subdivision for this site, I am aware of the amount of erosion occurring along the shoreline. If MDE determines that structural means are necessary, then this office will defer to your determination. Any disturbance to the 100-foot Buffer shall be mitigated at a 1:1 ratio. Please ensure that the applicant coordinates with the Talbot County Planning Office to obtain a local shore erosion control permit and to implement a Buffer Management Plan for the required mitigation.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly

Natural Resources Planner

cc: Elisa DeFlaux, Talbot County Planning and Zoning

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October 15, 2008

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

Re: 1510
Coaches Island Administrative Appeal

Dear Ms. Corkell:

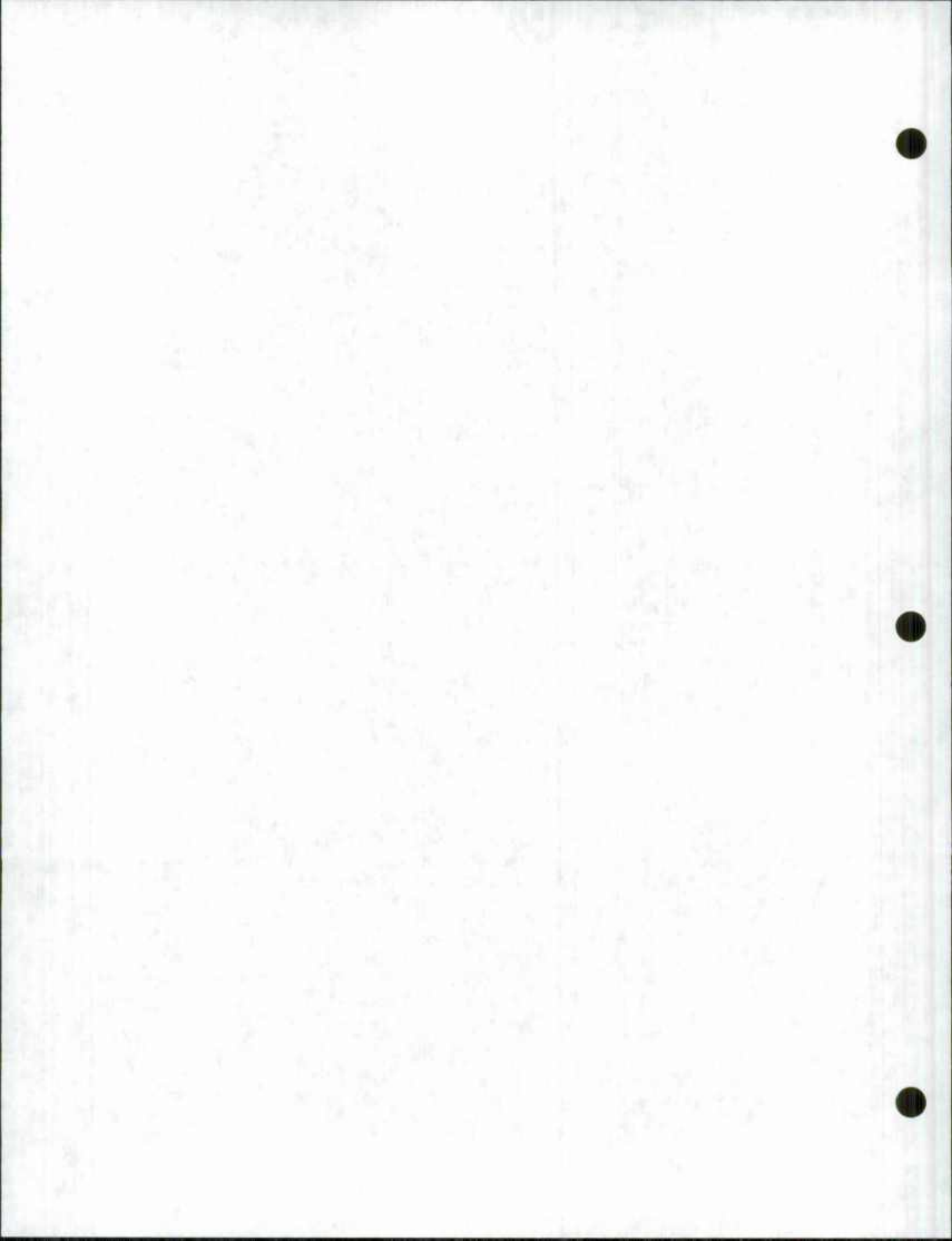
Thank you for providing information on the above referenced administrative appeal request. The applicant has filed an appeal, stating that the County Planning Officer erred in denying a proposed septic expansion onsite because the applicant had not complied with County subdivision requirements. The property, Tax Map 29, 30, 37 & 38, Parcel 1 & 39, is located within the Critical Area and is designated Resource Conservation Area (RCA).

It appears that the applicant is appealing the decision from the County Planning Officer because the County treated the applicant's request for an extension of the existing on-site septic system, addressed to the Talbot County Health Department, as a request for subdivision approval, and rejecting such requested septic expansion because the Applicant had not complied with County subdivision regulations. The applicant claims that the subdivision regulations do not apply to this request, as in 1986 the County permitted the island to be divided into separate lots for non-developmental purposes through the use of a waiver. The applicant wishes to only replace the sewage treatment tank and tile field, and, eventually, the building based on the 1986 decision. The process of granting a waiver for nondevelopmental division of land appears appropriately contained and clearly defined within the County's zoning ordinance. Therefore, this office has no comments to offer and defers to the Board's interpretation of the County's ordinance language on this matter.

Thank you for the opportunity to provide comments on this Board of Appeals administrative appeal request. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: TC 573-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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October 15, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: White and Brink Ferry Bridge Subdivision & Line Revision
TM 24 P112**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced lot line revision. The applicant proposes to revise the reservation of development rights area on an existing Tax Parcel (TP 112) and create a one lot subdivision. The parcel is 47.441 acres in size and is designated Resource Conservation Area. Total existing lot coverage within the Remaining Lands portion of Tax Parcel 112 is 26,429 square feet; no lot coverage currently exists on Lot 2. Total forest coverage onsite is 8.469 acres (17.85%).

Based on the information provided, we have the following comments on this proposed subdivision:

1. The statistics on the black-and-white site plan vary from the statistics on the aerial site plan, making it difficult for this office to provide full comments. In particular, the following statistics vary between each sheet:
 - a. The total area of Lot 2
 - b. Allowable Impervious Area, Lot 2
 - c. Total Area Parcel 112, Reserved Lands
 - d. Area in Lots
 - e. Area in Reservation of Development Rights
 - f. Area in Reserved Lands

In addition to differing statistics, it appears that the relocated reservation of development rights area and the proposed sewage disposal area differ in location on the site plan as well. Please have the applicant resubmit a site plan, providing consistent statistics and locations on each sheet.

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2. Upon completion of this subdivision request, the applicant will have exhausted all development rights associated with this parcel.
3. The site plan states that Lot 1 exists and is 2.09 acres; however, Lot 1 cannot be identified on Tax Parcel 112, which is the subject of this line revision and subdivision request. A 'Lot 1' is marked for Tax Parcel 205. If this Lot 1 is associated with this line revision and subdivision request, please have the applicant provide full site statistics and lot coverage calculations for Lot 1, and please have the applicant provide total acreage for the both tax parcels.
4. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.
5. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement, as stated in Chapter 119 of the 2008 Laws of Maryland.

October 15, 2008

Page 3

6. The 100-foot and Expanded Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. Please add a note referencing this requirement to the plat.
7. Mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing.
8. Talbot soil maps reveal the location of an unclassified stream extending from the tidal wetlands on the northern side of the site. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Commission." As of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, unless and until the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only methodology provided under the law for the identification of streams.
9. Please have the applicant forward to this office a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species located onsite.
10. The site plan mentions that FIDS habitat exists onsite. Therefore, development restrictions will apply if construction is proposed for this area. If construction is proposed within the FIDS area, a FIDS Mitigation Analysis sheet must be submitted to this office for review and comment.
11. If construction is proposed within FIDS habitat, a Habitat Protection Plan must be submitted to this office for review and comment, as required in §190-93 E(8)(d) of the Talbot County code, prior to preliminary plat approval.
12. The proposed project is partially located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.

Thank you for the opportunity to provide comments on this subdivision and lot line revision. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: TC 521-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 15, 2008

Mr. Robert Cuthbertson
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Baltimore City

Dear Mr. Cuthbertson:

I am writing to provide comments on the following project located in Baltimore City:

200663743/06-WL-1653: Maryland Port Administration

In the Patapsco River, at the Masonville Marine Terminal, the applicant proposes to mechanically/hydraulically dredge a 39.6 and a 2.4 acre area to the 67-foot depth at Mean Low Water (MLW), fill a 6-acre wet basin with granular fill to the 8-foot elevation at MLW, and emplace 253 square feet of stone revetment within a maximum of 129 feet channelward of Mean High Water (MHW). The purpose of the project is port development.

The first phase of the Masonville project has received review and approval by the Critical Area Commission; however, it is our understanding that the proposed wet basin was not included at that time. As a result, the construction of the wet basin will require review and approval by the Critical Area Commission.

200764081/08-WL-0231: Baltimore City Department of Public Works

In Harris Creek, the applicant proposes to emplace a 32-foot long by 16-foot wide waterwheel trash interceptor and four mooring piles within a maximum 44 feet channelward of MHW. The purpose of the project is to provide trash cleanup.

This project was submitted by the City of Baltimore to this office in July 2008 and was found to be consistent with the City's Critical Area Program. We have requested that the City provide a copy of the MDE tidal wetlands permit be supplied to this office once it is issued.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly". The signature is written in dark ink and is positioned above the printed name.

Nick Kelly

Natural Resources Planner

cc: Duncan Stuart, City of Baltimore Department of Planning
Michael Bozman, Maryland Port Administration

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 16, 2008

The Honorable Carolyn Sorge
Town of Betterton
#3 Third Avenue
PO Box 339
Betterton, MD 21610

**Re: Francis Julian Buffer Management Plan
TM 100, Parcel 1706**

Dear Mayor Sorge:

Within the past few weeks, Mary Ann Skilling has provided us information regarding the Buffer Management Plan for the Julian property. It is my understanding that the applicant has cleared approximately 24,135 square feet of the Expanded Buffer for steep slopes without authorization. Consequently, the Town has asked the applicant to provide a Buffer Management Plan to restore these cleared areas. The applicant proposes to provide 24,135 square feet of mitigation in the form of 18 trees with three large shrubs (7,200 square feet of credit), 91 large shrubs (4,550 square feet of credit), and 496 small shrubs (12,400 square feet of credit). In addition, the applicant proposes to remove man-made debris and invasive plants from a portion of the expanded Buffer, as well as remove organic debris from another portion of the Expanded Buffer.

Based on the information provided, and based on a June 20, 2008 site visit, I have the following comments on the Buffer Management Plan:

1. Based on my conversation with Mary Ann Skilling, Circuit Rider for the Town of Betterton, it is my understanding that a fine was not issued for this Buffer violation. The Town of Betterton Zoning Ordinance, §34.G(3), states that for any "unauthorized clearing, cutting, or removal of vegetation in the Buffer or another Habitat Protection Area, fines shall be assessed." §15.C of the Betterton Zoning Ordinance states that, "in addition to any other penalty applicable under State or municipal law, a person who violates a provision of Natural Resources Article, Title 8 Subtitle 18, or the Town's Critical Area Program, ordinances, or regulations is subject to a fine not to exceed \$10,000." Based on this information, the Town issue and collect a fine for this Buffer violation prior to any approval of the submitted Buffer Management Plan.

2. The Town Of Betterton Zoning Ordinance §34.G(3) states that "reforestation shall be required at 3 times the total surface acreage of forest cleared." The applicant is currently only providing 1:1 mitigation for this violation. Furthermore, in order to install trees along the slope of Area C, grading may be likely. Based on this information, please have the applicant revise the Buffer Management Plan to provide 72,405 square feet of Buffer plantings.
3. The applicant proposes to remove organic debris (dead trees and branches) in the expanded Buffer from Area C. However, the applicant has not proposed replanting Area C upon removal. Based upon my visit to the site, it appears that the debris removed is the remains of the trees that were removed from without authorization from Area B. Staff recommends that the applicant replant this area. In addition, the applicant should not receive 1:1 mitigation credit for this removal.
4. Please have the applicant provide more information on how Area E will be managed and maintained. Currently, the applicant states only that they will "continue to manage and maintain as it currently exists."
5. Please have the applicant provide information on the type of spray that will be used to remove invasive species from the Buffer.
6. Please have the applicant provide provisions for maintenance, survival, monitoring, and replanting of the area. We recommended that applicant refer to Town's Zoning Ordinance, Appendix 1, §7.8 to determine the measures necessary to meet this requirement. We note that the ordinance requires plantings to be completed within a two-year period.
7. Prior to the approval, the Town should acquire from the applicant provisions for the collection of a bond in an adequate amount to ensure effective implementation of this project for a two-year period. As stated in the Town's Zoning Ordinance, Appendix 1, §7.8.4, within the Critical Area, a performance bond or surety should be executed by the owner in the amount of 120% of proposed plant materials, labor, and maintenance costs.

Thank you for the opportunity to provide comments on this Buffer Management Plan. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: BE 0531-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 16, 2008

Mr. Anthony DiGiacomo, AICP
Cecil County Government
Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Fieldstone Environmental Assessment
Tax Map 52, Parcel 455**

Dear Mr. Di Giacomo:

Thank you for providing information regarding the environmental assessment for the above referenced subdivision plat. The applicant is seeking to develop a 6-lot subdivision. The entire parcel is 57.19 acres; 6.80 acres are located in the Critical Area and designated Resource Conservation Area (RCA). Only portions of Lot 1 are located in the Critical Area.

Based on the information provided, I have the following comments regarding this project:

1. It is difficult to delineate the 110-foot stream Buffer on the site plan. Please use a different symbol or font to more clearly depict this from the limits of the tidal floodplain and wetlands buffer symbols.
2. The two area of RCA on Lot one must be separately identified on both the Environmental Assessment (EA) and site plan. Any proposed development in the RCA must meet all development standards individually. For example, the proposed lot coverage for the area in the RCA located adjacent to Stony Battery Road is 15% of that portion of the RCA only; the remaining portion would have a 15% lot coverage limit as well.
3. It is unclear if the Buffer has been expanded for steep slopes. Applicants must extend the Buffer for steep slopes according to the Cecil County Zoning Ordinance §196.3.c and COMAR 27.01.09.01C(7), which states that "...In the case of contiguous slopes 15 percent or greater, the Buffer shall be expanded four feet for every one percent of slope, or the top of the slope, which is greater in extent." In order to verify its accuracy, please

have the applicant provide samples of the methodology used on this site to calculate the expanded Buffer.

4. It is unclear if the Buffer has been expanded for any hydric soils that may be located onsite, as also requested in my July 17, 2008 letter. The 110-foot Buffer must be expanded for hydric soils, as stated in §196.3.b of the Cecil County Zoning Ordinance. It is our understanding that hydric soils are located adjacent to the nontidal wetland area.
5. GIS data has determined that FIDS Habitat is located onsite. While it is our understanding that no development or clearing is proposed within the FIDS habitat area at this time, we suggest that the applicant place this area in an easement to avoid any future development to this sensitive habitat area. In addition, the applicant should forward to this office a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite.
6. The EA, as well as the plat, should, at a minimum, include the following information in the notes section:
 - a. Information stating that the 100-foot and Expanded Buffer will be fully forested in three-tier vegetation, as found in COMAR 27.01.09.01 and §196.3 of the Cecil County Code, must be included as a note on the Environmental Assessment.
 - b. Information indicating the presence of FIDS habitat and the requirement for any disturbance of this area to comply with Cecil County development restrictions.
 - c. No disturbance is permitted within the 100-foot and expanded Buffer per §196 of the Cecil County zoning Ordinance.
 - d. The amount of forest coverage located onsite within the Critical Area. The site must maintain 15% forest coverage (1.02 acres) within the Critical Area.
 - e. Mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing. For clearing within 20-30%, mitigation shall be 1:5-1, and for clearing over 30%, mitigation shall be 3:1.
7. Please delineate the driveway and building envelope for Lot 1, to ensure that the applicant meets all development standards within the Critical Area when developing this lot.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: CE 554-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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1804 West Street, Suite 100, Annapolis, Maryland 21401

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October 16, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Re: Bayhead Shore Estates Preliminary Plat

Dear Mr. DiGiacomo:

Thank you for forwarding additional comments from Morris & Ritchie Associates (MRA) regarding the above referenced subdivision. The applicant is seeking preliminary plat approval for a 74 lot subdivision, of which 50 lots are located partially or completely within the Critical Area. Comments on this subdivision were previously provided by Lisa Hoerger and Kate Schmidt on March 12, 2008 and June 24, 2008, respectively. The comments below are in response to the communication provided to your office by MRA.

1. Item 1: COMAR 27.01.02.04.C(6) does not differentiate the origin of the steep slopes. All steep slopes, including man-made steep slopes, are protected under this provision. Steep slopes cannot be eliminated as a way to protect or improve the stability of the slope.
2. Item 2: As a result of House Bill 1253, one major modification to the Critical Area Law was the change from impervious surface limits to lot coverage limits. Lot coverage is defined as the percentage of a total lot or parcel that is:
 - a. Occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or
 - b. Covered with a paver, walkway gravel, stone shell, impermeable decking, a paver, permeable pavement, or any other manmade material

Lot coverage includes the total ground area covered or occupied, including elements protruding from a building such as a stairway, cantilevered deck, chimney, or

overhanging deck or balcony by a stairway or impermeable deck. Lot coverage does not include:

- a. A fence or wall that is less than one foot in width that has not been constructed with a footer
- b. A walkway in the Buffer or expanded Buffer, including a stairway, that provides direct access to a community or private pier; or
- c. A wood mulch pathway; or
- d. A deck with gaps to allow water to pass freely

Based on this change to the Critical Area Law, all references to impervious surface limits on this site plan shall be converted to lot coverage limits.

In reviewing Item 2, we understand, based on MRA's example, that each lot is currently under the maximum lot coverage limit selected, or 25%. However, within MRA's example, only 179 square feet of allowable lot coverage remains per lot. Commission staff has significant concerns about whether this amount is adequate enough for a home owner to construct an addition or accessory structure, such as a shed or deck, without requiring a variance for exceeding impervious surface limits onsite. Accordingly, the subdivision's overall proposed lot coverage should be reduced to leave future lot owners reasonable room for lot coverage enhancements to their property. We recommend that the County not approve this subdivision request until the applicant has addressed this issue, as staff feels that approving a new subdivision at the 15% limit, with the knowledge that future improvements are expected, is inconsistent with the spirit of the Critical Area Law, particularly when other alternatives, such as the use of growth allocation, or a reduction in the number of lots, are available.

At a minimum, the lot coverage limit selected by MRA must be identified on the plat per each lot and the restriction included in each deed in order to properly inform future lot owners.

3. Item 5: While we still recommend that the amount of proposed clearing inside the Critical Area should be shown on the final plat, we will accept this to be shown on the Final Environmental Assessment (EA). However, we do recommend that a note referencing the Final EA be placed on the final plat.
4. Item 7: Please have the applicant provide more information on the standard procedures and legal mechanisms that will be utilized to maintain the reforestation on the stormwater management easement.

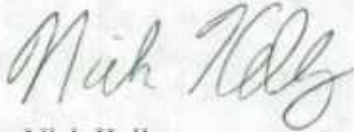
Lastly, I would like reiterate Ms. Schmidt's statement from her June 24, 2008 letter emphasizing that the Cecil County Subdivision Regulations Section 3.2 and Section 4.1.21 require the Cecil County Planning Commission to ensure that each subdivision conforms to the Zoning Ordinance and to the letter and intent of the Cecil County Critical Area Program and related implementation

Bayhead Shore Estates
October 16, 2008
Page 3

requirements. Unless the subdivision plat can demonstrate that all requirements may be met, the Planning Commission may not approve the final plat.

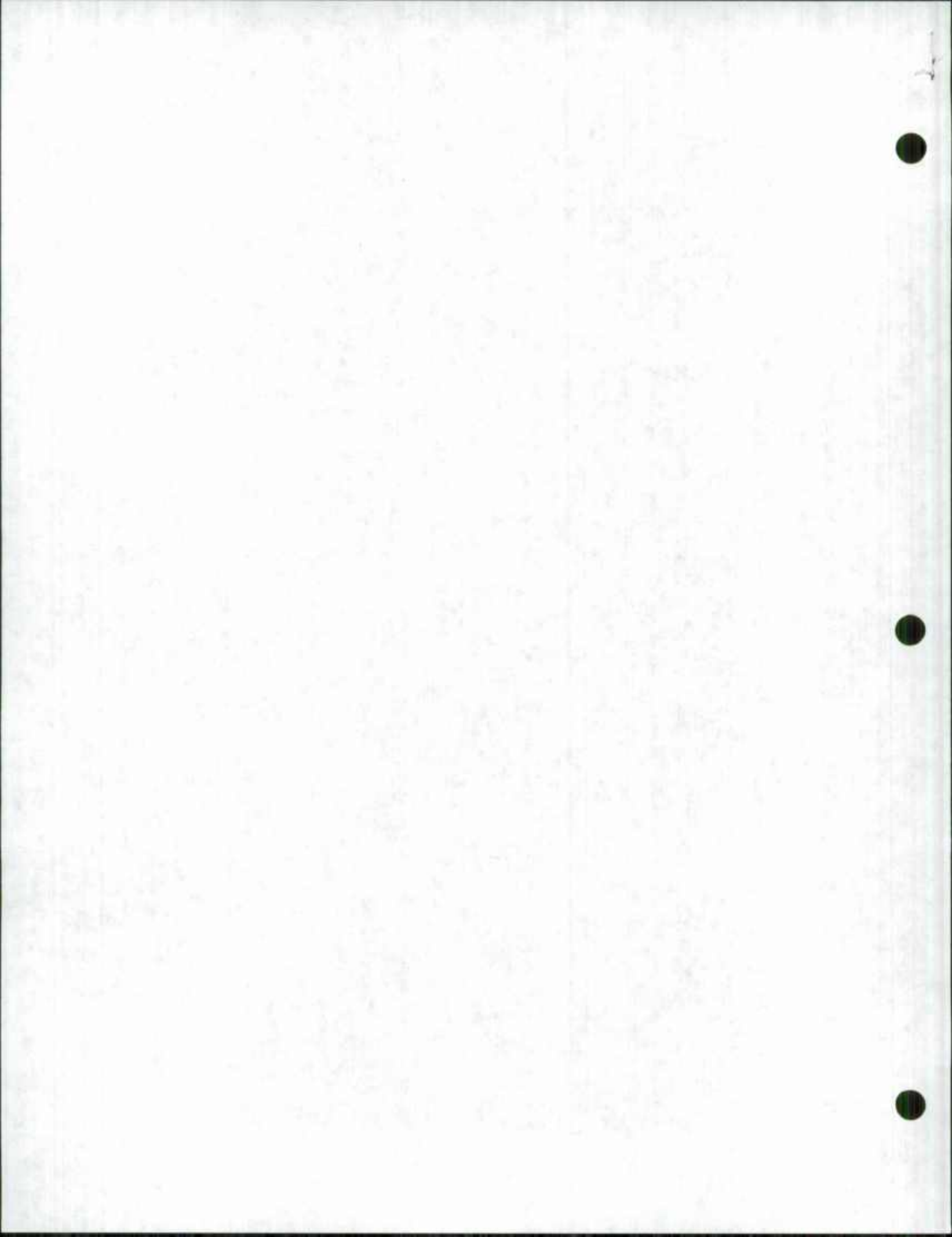
Thank you for the opportunity to provide comments. Please provide a copy of the revised plat that addresses the above issues when it becomes available. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nick Kelly".

Nick Kelly
Natural Resource Planner

cc: CE 816-04
James Keefer, Morris & Ritchie Associates



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 17, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Revised Record Plat – Bracebridge Hall
Preliminary Plat and Growth Allocation Request**

Dear Mr. DiGiacomo:

Thank you for forwarding the above referenced project for review and comment. The applicant is seeking to revise a previously approved subdivision in the Resource Conservation Area (RCA) to include a golf course and potential growth allocation. The proposed design seeks to include a golf course throughout the RCA that is consistent with the Critical Area Commission's "Golf Courses in the RCA" policy document. Further, the applicant is seeking approximately 40 acres of growth allocation in order to change the land designation from RCA to Limited Development Area (LDA) to accommodate the clubhouse, associated facilities, dock area, and twelve lots.

This office provided preliminary comments on the proposed growth allocation on May 9, 2008 and July 1, 2008. Further, Kate Schmidt prepared a memo to the Program Subcommittee of the Critical Area Commission in July 2008 to seek guidance regarding the proposal and provide feedback to Cecil County.

Based on the current proposal provided, it appears that many of the comments Ms. Schmidt has provided have not been addressed at this time. Those comments are reiterated below, along with additional comments based on my review of the site plan:

1. This office understands that occasionally applicants use the language contained in the 1988 Cecil County Program document to guide them on expanding the 110-foot Buffer for steep slopes. However, as you are aware, Section 196.3.c of the Cecil County Zoning Ordinance contains a different requirement, which is the one that must be used by the applicant. When steep slopes are contiguous to the Buffer, the Buffer must be expanded

four feet for every one percent of slope or to the top of slope, whichever is greater. Given the scale of the site plan at 1"=100' and unclear shading for areas of steep slopes I am unable to absolutely determine whether the Buffer expansion is correct. However, from the information provided, it appears that Buffer was not properly expanded in several areas.

I would advise the applicant to prepare a separate exhibit simply showing the Buffer at a better scale and more clearly showing areas of steep slopes. In addition, I recommend the applicant include a series of transects and an accompanying table that identify the percent of slope and the calculation used to determine the extent of the expansion. The methodology used for expansion should be consistent throughout the property. I am available for any further guidance or assistance on this issue as necessary.

2. Based on overlays from the Cecil County GIS website, it appears that there are several streams located onsite that have not been shown on the current site plan or have been labeled as drainageways on prior submittals. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area *that has been identified by site inspection* or in accordance with local program procedures approved by the Commission". Further, as of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, *unless and until* the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only possible methodology under the law for the identification of streams. A Jurisdictional Determination is not an appropriate substitute for an on-site inspection.
3. Based on Comment #2 above, this office requests a site visit to the property to review the areas of the GIS map which indicate streams. The applicant may need to evaluate these areas to determine whether intermittent or perennial stream classifications apply.
4. We note that a minimum 150-foot Buffer should be maintained around streams, per the Commission's Golf Courses in the RCA policy.
5. The site plan shows an expanded parking lot in the Buffer near the boat dock. It is my understanding that the applicant intends to provide uses beyond 12 boat slips for the proposed lots in the Critical Area, such as a water taxi. Please provide clarification on whether the pier and slips will be limited to use by the residents of the 12 lots within the development envelope, will be available to golf course patrons, or will be accessible by all members of the public. The parking lot should be relocated outside the Buffer as parking areas are not considered water-dependent facilities.
6. A portion of Dock End Drive, which serves lots 102-105 in the Critical Area, is located within the 300 foot setback. The 2008 changes to the Critical Area law require that a 300 foot setback is provided when a new LDA is located in a RCA unless the County

proposes and the Commission approves alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources. While the existing drive accessing the water is allowed in the Buffer, the applicant should revise the site plan to relocate Dock End Drive outside of the 300-foot setback and within the development envelope since it serves the four lots.

7. The site plan states that the applicant is requesting "40+/-" acres of growth allocation. The submittal to the Critical Area Commission must state an exact amount of growth allocation requested. We note that the newly proposed development envelope includes the dock area and McGill Creek Farm Lane; however, the amount of growth allocation requested (40+/- acres) has remained the same. Please have the applicant clarify this issue.
8. Please change all references of "Chesapeake Bay Critical Area" to either "Critical Area" or "Critical Area for the Chesapeake and Atlantic Coastal Bays."
9. On the Lot Area Table, please revise "Prop. Impervious Cover in CBCA" to "Prop. Lot Coverage in Critical Area."
10. A trail is proposed within the 110-foot Buffer and expanded Buffer. We note that private trails that run parallel to the shoreline are not permitted within the 110-foot or expanded Buffer. We recommend that the applicant redesign the trail to be located outside the Buffer, or that the applicant enact provisions to utilize the trail for public use.
11. On the conceptual Buffer Management Plan (BMP), the applicant states that "Vista Pruning" will occur onsite to "create or maintain selective views of the water resources." In addition, the BMP shows that several areas will be planted with only native shrubs or groundcover. The 110-foot and Expanded Buffer must be fully forested in 3-tier vegetation. We *strongly* recommend that the applicant revise the BMP at this stage of the approval process to provide this fully forested Buffer, and that a note referencing this requirement be added to the BMP and to the plat. This is required, as found in COMAR 27.01.09.01 and §196 of the Cecil County Code. In addition, we note that when this project was discussed with the Program Subcommittee in July 2008, the applicants were informed that the Buffer would need to be fully established.
12. It is our understanding that a Bald Eagle's Nest is located onsite. A note should be added to the BMP and Environmental Assessment (EA) stating the development restrictions that will be required due to the presence of the Bald Eagle's nest.
13. While it is our understanding that no development or clearing is proposed within the FIDS habitat area that exists onsite, we suggest that the applicant place on a note on the site plan at this time that restricts forest clearing within the FIDS habitat, and ensures that the site meets the requirements for FIDS protection found in §197 of the Cecil County Zoning Code.

Mr. Tony DiGiacomo
Bracebridge Hall
October 17, 2008
Page 4 of 4

14. The BMP should show areas of steep slopes and hydric soils onsite, to ensure that the Buffer is properly expanded.
15. Information addressing that the project will meet the Critical Area requirements for the protection of forest and developed woodlands in the RCA and LDA, as found in §200.6 of the Cecil County Code, should be noted on the BMP and EA.
16. Information stating the how the project meets the guidelines of Maryland Department of Natural Resources Wildlife and Heritage Service and §197 of the Cecil County Code to protect the Habitat Protection Area onsite should be noted on the BMP.

Additionally, we have concerns on whether the proposed development envelope is clustered, whether the applicant is providing public access, and whether the Buffer Management Plan is suitable for review and approval by the Commission. These issues may be the cause of significant discussion when the project is brought forth to the Commission for review and approval. Lastly, I would like to remind the County that the County Commissioners must provide documentation and information with their submittal to this office regarding how they applied the standards and factors to be considered found in Natural Resources Article 8-1808.1.

Thank you for the opportunity to provide comments. If you have questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner

cc: CE 202-06
Mr. James Keefer, MRA

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 17, 2008

Mr. Tony DiGiacomo
Cecil County Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, Maryland 21921

**Re: Final Major Subdivision
Lands of Herschell B. Claggett**

Dear Mr. DiGiacomo:

Thank you for submitting the above referenced final subdivision plat for review and comment. The parcel is 209.279 acres in size, with 78.2 acres located within the Critical Area and designated Resource Conservation Area (RCA).

Based on the information provided, we have no additional comments on this proposal.

Thank you again for providing information on this final subdivision plat. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: CE 163-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 17, 2008

Ms. Elisa DeFlaux
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Wye Landing Boat Ramp, Pier, and Slips
Consistency Report (TM 4, P 53)**

Dear Ms. DeFlaux:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The County proposes to replace in-kind an existing boat ramp with a new 92-foot wide by 56-foot long concrete boat ramp with three boarding piers, and install four 18-foot wide by 40-foot long mooring slips with two mooring piers and ten mooring piles. The property is 0.85 acres in size and is designated Resource Conservation Area (RCA). After reviewing the consistency report, this office agrees that the project is generally consistent with the Talbot County Critical Area Program for the reasons outlined below:

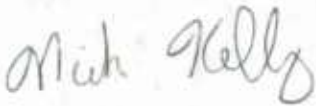
1. Total area disturbed for this project is 800 square feet.
2. Total forest coverage onsite is 0.05 acres. The project will not impact forest, woodland, or trees; no clearing is proposed.
3. Stormwater management plans are not applicable to this project, as total disturbance onsite is less than 5,000 square feet.
4. No non-tidal wetland impacts will occur.
5. The project is water dependent.

We have the following additional comments about this project:

1. Since the project is providing shoreline access, mitigation for all Buffer disturbance (800 square feet) shall be provided at a 2:1 ratio. Please provide this office with a planting agreement showing 1,600 square feet of mitigation, including the location, species, and size of the proposed plantings.
2. Sediment and erosion control plans are required. Please submit a copy of this permit once it is received.
3. Tidal wetland impacts will occur, and a permit is pending. We request that a copy of the MDE tidal wetlands permit be provided to this office once it is received.
4. The proposed project is located within a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.

Thank you again for providing information on this consistency report application. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: TC 533-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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October 20, 2008

Ms. Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

Re: Cavaselis Line Revision
L1060

Dear Ms. Verdery:

Thank you for forwarding the above referenced lot line revision final resubmittal. The applicant is requesting a lot line abandonment between an existing lot (Lot 4) and an undeveloped parcel (Parcel 96). Both Properties lie within a Rural Conservation Area (RCA). Lot 4 is developed with a two-story dwelling and gravel driveway. Parcel 96 is currently undeveloped. Total impervious surface on Lot 4 is 0.18 acres, below the 15% permitted lot coverage limit. The applicant has addressed all of our comments.

Thank you for the opportunity to provide comments. Should you have any further questions regarding this application, please call (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
TC 362-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 20, 2008

Amanda M. Paoletti
Cecil County Government
Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Skipjack Cove Yachting Resort
TM 67, Parcel 3**

Dear Mr. Paoletti:

Thank you for providing supplemental information on the above-referenced site plan. The applicant proposes to redevelop a portion of an existing marina property with a dry boat storage facility and pump house. The site area for this project is 2.90 acres and is designated Intensely Developed Area (IDA) and a Buffer Exemption Area (BEA). The proposed activity is located partially in the 110-foot Buffer; the applicant has been granted a variance by the Cecil County Board of Appeals to locate the dry boat storage facility within the 110-foot stream Buffer. To meet 10% Phosphorus removal requirements onsite, the applicant is reducing lot coverage within the site area from 1.33 acres to 1.30 acres. Additionally, the applicant is planting 11 shrubs (Summersweet Clethra) to meet mitigation requirements for proposed impacts within the BEA.

Based on the information provided, that applicant has clarified all concerns, and we have no additional comments.

Thank you for the opportunity to provide comments on this application. If you have any questions, please contact me at 410-260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: CE 526-04

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Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 21, 2008

Ms. Betsy Vennell
Office of Planning and Zoning
Town of North East
PO Box 528
North East, Maryland 21901-0528

**Re: North East Isles Buffer Management Plan
Lots 98, 99, 100**

Dear Ms. Vennell:

This office has received a copy of the revised Buffer Management Plan (BMP) for the above-referenced project. The applicant has proposed to construct three houses, three walkways to individual piers, and upgrades to an existing road for a previously approved subdivision. The site is 2.35 acres in size and is designated Limited Development Area (LDA). Total proposed lot coverage is 0.063 acres; all lots are proposing less than 15% lot coverage. Total forested area onsite is 1.29 acres (54.9%); the applicant proposes to remove 26 trees. It is our understanding that a portion of Buffer mitigation (13,055 square feet) will be planted within the Town limits at various locations determined by Town staff.

We understand that the applicant has submitted this BMP to us for review and approval. While we are happy to provide comments on the plan to the Town, we note that the Town ultimately has the approval authority for this plan. Below are our comments based upon review of this Buffer Management Plan:

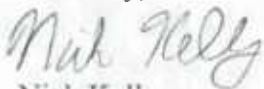
1. Mitigation is required for the removal of 26 trees at a 3:1 Ratio (7,800 square feet). The applicant states that this requirement will be completed by planting 20 large trees and 39 small trees. Large trees (2-inch caliper) receive 100 square feet of mitigation credit, while smaller trees receive 75 square feet of credit. Based on these credits, the applicant is required to provide an additional 2,875 square feet of plantings to meet mitigation requirements onsite.
2. The applicant lists two shrubs, Red Chokeberry and Silky Dogwood, as trees on the site plan. Please have the applicant revise the BMP to show these plants as shrubs, and please

revise the mitigation calculations appropriately, as shrubs receive only 50 square feet of mitigation credit.

3. It appears that the "On-site Tree Plantings" table is inaccurate. For example, the table states that 20 large trees will be planted in Area A, and nine large trees will be planted in Area E. However, the BMP reveals that only 19 large trees are proposed within Area A, and 10 are proposed within Area E. We recommend that the applicant revise the BMP so that the table and map of the proposed locations are in accord.
4. Please have the applicant provide in the planting notes section the period of time when the applicant will install the plantings (e.g. – between March and May).
5. The applicant shall add the following note to the planting plan: "Natural regeneration of native vegetation and groundcover will be permitted onsite after the initial planting of the Buffer area."
6. Please have the applicant revise site note #10, found on Sheet E01, from "All decks should be constructed to remain pervious, with spaces between boards,..." to "All decks should be constructed to remain pervious, with gaps between boards,..."
7. Wetlands are delineated onsite, but it appears the applicant uses the same symbol to identify both tidal and nontidal wetlands, and a 25-foot Buffer is drawn around a tidal wetland. Please have the applicant revise the BMP, showing the location of tidal and nontidal wetlands using separate symbols. Nontidal wetlands have a 25-foot Buffer, while a 100-foot Buffer is drawn from tidal wetlands of the edge of tidal waters.
8. The plan states that the North East River is a Habitat Protection Area (HPA). However, no notes are listed on the plan stating how this HPA will be protected. Please have the applicant add a note that states what measures will be taken to protect the HPA.
9. Please have the applicant forward a copy of the MDE permits for all three piers to this office once it is received.
10. The applicant must submit a planting plan to the Town for all proposed off-site plantings.

Thank you again for providing the opportunity to review this Buffer Management Plan. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: NE 424-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 22, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

**Re: Otwell Farm Subdivision and Revision
TM 47, P40 & 77**

Dear Ms. Verdery:

Thank you for providing supplemental information on the above referenced subdivision and lot line revision request. The applicant originally proposed to develop a 15-lot subdivision with a private road. It is our understanding that the applicant has revised this application and is now proposing a 6-lot subdivision. The parcel is 400.807 acres in size, with 344.938 acres located in the Critical Area and designated as Resource Conservation Area (RCA). Currently, a manor house, farm building complex, garage, and farm house exist onsite; the farm buildings and farm house are located outside of the Critical Area. Total existing forest coverage onsite within the Critical Area is 28.445 acres (8.1%).

The applicant is permitted sixteen development rights in the Critical Area on this parcel. It appears that the applicant is proposing six lots primarily grandfather percs for septic systems that are located within 200 feet of the shoreline. Consequently, two development rights will be attributed to Lot 1, four development rights to Lot 2, two development rights to Lot 3, one development right to Lot 4, three development rights to Lot 5, 1 development right to Lot 6, and two development rights to Revised Tax Parcel 77. In addition, it is our understanding that the applicant proposes to negotiate with the department of Public Works and the County Council to keep Otwell Road private in order to deter further subdivision of this land.

In reviewing the information provided, we have concerns about whether the applicant will be able to maintain Otwell Road as private in perpetuity, thus creating a disincentive to not further subdivide the parcel. The Talbot County Department of Public Works (DPW) commented on this plan at the October 8, 2008 Technical Advisory Committee (TAC) meeting and stated that, due to the number of existing and proposed lots that use the existing private road, a portion of the

TTY for the Deaf

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road must be upgraded to public status. We request that the County update Commission staff on whether the applicant will be permitted to maintain this road as private. We do note that that two development rights will be transferred from Tax Parcel 40 to Tax Parcel 77 using the County's Rural Conservation density transfer mechanism. Staff would recommend that the applicant consider using this same mechanism to transfer other existing development rights onsite to different parcels in the RC that may be better suited for development and will impact fewer Habitat Protection Areas. This would offer greater protection to the RCA and provide absolute assurance that no more than six lots could be developed.

Second, we would like to add that while the six lots proposed may be developed with a minimum 100-foot Buffer (provided it meets the requirements found in comment #1 below), any future subdivision of this land will require new lots to maintain a minimum 200-foot Buffer and meet the new Critical Area lot coverage requirements, as found in Section 8, Ch. 119, 2008 Laws of Maryland at 765. Finally, we would like to note that several outstanding issues mentioned in our comments below, particularly the size and scope of hydric soils located onsite, are of significant importance and must be addressed appropriately in order for this subdivision to be approved as proposed. We request that the applicant continue to work closely with County and Commission staff to resolve these issues in an appropriate and timely manner.

Below are additional comments on the site plan:

1. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.
2. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under

these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland. We specifically note this requirement, as the location of several wells and Sewage Disposal Areas (SDAs) are located within the 200-foot and Expanded Buffer.

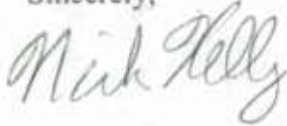
3. The 100-foot and Expanded Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. Please add a note referencing this requirement to the plat.
4. The site plan states that the applicant "reserves the right to reconfigure the Buffer expansion in areas if accurate topography confirms the mapped soils overlay slopes less than 5%." This office notes that the 100-foot Buffer shall also be expanded if other areas of hydric or highly erodible soils are located contiguous to the 100-foot Buffer, as per §190-93E(b) of the Talbot County Code.
5. The applicant is proposing to construct an access road for the site as well as SDAs for Lots 2, 3, 5, and 6 within the Expanded Buffer for hydric soils. These actions will require variances. New lots created after the County's Critical Area Program adoption date must fully comply with all of the County's Critical Area regulations. Therefore, the applicant must reconfigure the road and location of the SDAs to avoid the need for any variances.
6. Due to the presence of several large areas of hydric soils, this office recommends that the applicant consider provide soil sampling methodologies to determine the accurate location and composition of the soils onsite.
7. Based on the size and scope of this project, Commission staff requests that the applicant perform a wetland and stream delineation for the entire property in consultation with the Maryland Department of the Environment (MDE). We note that the 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Commission". As of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, unless and until the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only methodology provided under the law for the identification of streams. Please have the applicant provide information on how streams were delineated onsite to ensure that this requirement has been met.
8. The Department of Natural Resources Wildlife and Heritage Division (WHS) and GIS layering have indicated that a bald eagle's nest is located within ¼ mile of the property.

In addition, the Delmarva Fox Squirrel (DFS) is known to occur or in the immediate vicinity of the property. The applicant must address how the project meets the guidelines of Maryland Department of Natural Resources Wildlife and Heritage Service to protect these species.

9. The property is located within Forest Interior Dwelling Bird (FIDS) habitat. While it is our understanding that, at this time, no development or clearing is proposed within the FIDS habitat area at this time, we suggest that the applicant place on a note on the site that restricts forest clearing within the FIDS habitat, and ensures that the site meets the requirements for FIDS protection found in §190-88 and §190-93 of the Talbot County Code.
10. Due to the presence of a bald eagle nest, Delmarva Fox Squirrel Habitat, and FIDS habitat onsite, a Habitat Protection Plan must be submitted to this office for review and comment, as required in §190-93 E(8)(d) of the Talbot County code. This plan must be submitted prior to preliminary plat approval.
11. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.

Thank you for the opportunity to provide comments on this subdivision and line revision request. Please have the applicant provide the information requested above. Please feel free to call me with any questions at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: TC 498-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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October 29, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Mueller Variance
A135**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced variance request. The applicant is proposing to construct an addition and covered breezeway, to increase the roofline on an existing two-story brick dwelling unit, and to redesign an existing gravel driveway within the 100-foot Buffer. The parcel is 3.203 acres in size and is designated Resource Conservation Area (RCA). The property is currently developed with a single-family dwelling unit, porch, pool, sidewalks, gravel driveway, patio, concrete apron and pads, shed, columns, and brick walls; the applicant proposes to remove portions of the driveway, sidewalk, and the entire concrete apron (2,944 square feet total). Total lot coverage onsite is currently 12,851 square feet; if the variance is granted, total lot coverage will increase by 1,878 square feet to 14,729 square feet.

The State law provides that variances to a local jurisdiction's Critical Area program may be granted only if the Planning Officer can find that an applicant has satisfied its burden to prove that the project meets each and every one of the county's variance standards, including the standard of unwarranted hardship. The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law.

In evaluating the information submitted by the applicant, including the number of structures located onsite, and that the dwelling unit, pool, patio and several other structures are located within the Buffer, it appears that the applicant currently enjoys reasonable and significant use of this property. Therefore, we question whether how the applicant would be denied reasonable and significant use of the property if the variance is denied. As previously stated, the County must

find that the applicant meets all five variances standards in order to grant the request. We recommend that the Planning Officer give particular consideration in this case to whether the standards of unwarranted hardship and the standard that the variance is in keeping with the general spirit and intent of the Critical Area Law have been met.

Thank you for again for providing information on this administrative variance request. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 609-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 29, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road
Easton, MD 21601

Re: **Hunter Subdivision
1089**

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision application. The applicant proposes to create a two lot subdivision on land zoned as Resource Conservation Area (RCA). Total size of the parcel is 89.165 acres; the parcel will be subdivided into a 60.97 acre lot (Lot 1) and 28.195 acre lot (Lot 2). A total of two development rights exist on Tax Parcel 279 Deed Parcel 11; both will be utilized if the subdivision is granted. Lot 1 is currently developed with seven assorted farm buildings, concrete pads, and brick walkways. Lot 2 is currently developed with a gravel roadway and deck. Total impervious surface is 34,710 square feet on Lot 1 (1.8% of the total lot) and 40,624 square feet on Lot 2 (3.3%). The impervious amount existing on both lots fall under the 15% permitted. Total forest coverage on Lot 1 is 564,915 square feet (21.2% of the total lot size) and on Lot 2 is 758,820 square feet (61.8%).

Based on the information provided, we have the following comments on this project:

1. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:
 - a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
 - b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

TTY for the Deaf

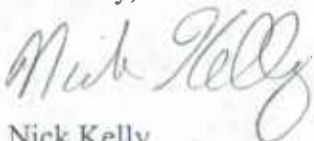
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In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

2. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement as stated in Chapter 119 of the 2008 Laws of Maryland. We note this comment specifically, as a 200-foot Buffer could significantly reduce the amount of buildable area for Lot 2; all lots must be created with sufficient buildable area so that a need for variances in the future is eliminated.
3. In our March 3, 2008 letter, we requested a field delineation to confirm the presence of two intermittent streams on Lot 1 that converge to the nontidal pond. It appears that these features have been noted on the site plan, although a portion of the stream is listed as an ephemeral farm ditch. Please provide information as to when this delineation was performed and the method used to determine where and why the stream transforms into a ditch.
4. Please forward to this office a copy of the Maryland Department of Natural Resources (DNR) Wildlife and Heritage Division letter evaluating the property to determine if there is the presence of any threatened or endangered species onsite. If present, the applicant must address all recommendations from DNR for protection of this species.

Thank you for the opportunity to provide comments on this subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: TC 572-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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CRITICAL AREA COMMISSION
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October 29, 2008

Mr. Victor Barreira
Office of Highway Development Community Design
Maryland State Highway Administration
707 N. Calvert Street
Mail Stop C-102
Baltimore, MD 21202

Re: Coppin State University Parking Garage

Dear Mr. Barreira:

We have received information in regard to a proposed parking garage facility for Coppin State University. Our records indicate that this project is not located within the Critical Area; therefore, this office has no comments.

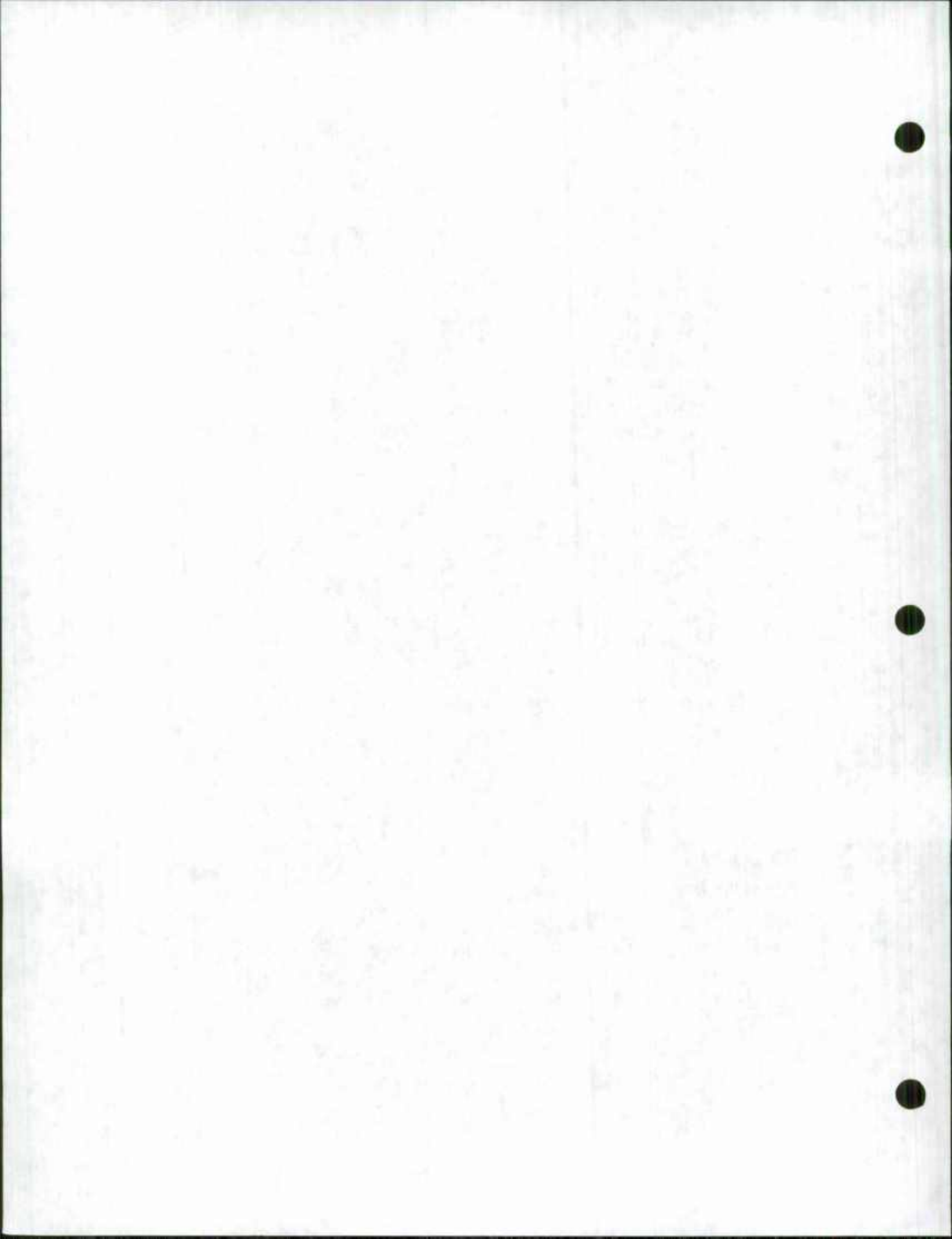
Thank you again for your help with this project. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nick Kelly".

Nick Kelly
Natural Resource Planner

cc: Lafaithea Stewart, Coppin State University
Duncan Stuart, Baltimore City Department of Planning



Martin O'Malley
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Executive Director

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October 29, 2008

Bethany Brock
Office of Planning and Zoning
Town of North East
PO Box 528
North East, Maryland 21901-0528

Re: **North East United Methodist Church (A-2008-20-SE)**
Hook, Line, & Sinkers, LLC, (A-2008-21-SE, A-2008-22-SE)
Special Exceptions

Dear Ms. Brock:

We appreciate your office taking the time to submit the above referenced special exceptions for review; however, special exceptions for industrial, commercial, institutional, non-residential, or multifamily parcels within an Intensely Developed Area (IDA) do not require notification to the Critical Area Commission. Therefore, we have no comments on these proposed projects.

For future reference, we have provided a copy of the Commission's Summary of Notification Requirements. If you have any questions in relation to this summary, please do not hesitate to call me at (410) 260-3483. I would be happy to provide you with any assistance possible.

Thank you once again for all of your help.

Sincerely,

Nick Kelly

Nick Kelly
Natural Resource Planner

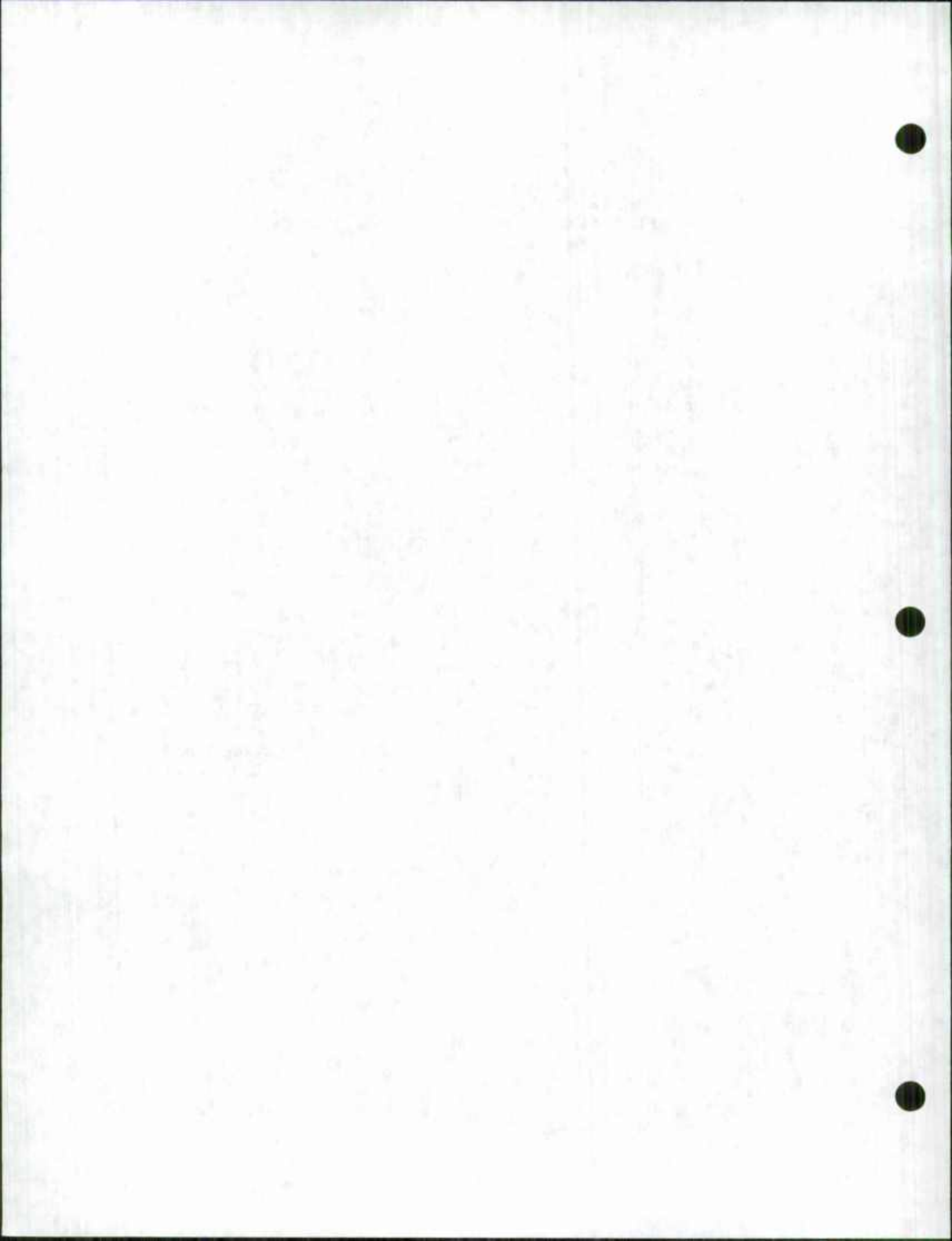
cc: file

enclosure

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October 29, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

**Re: Emerson Point, LLC Subdivision
TM 14 P 9, M1082**

Dear Ms. Verdery:

Thank you for providing information on the above referenced subdivision request. The applicant is proposing to develop a minor three-lot subdivision. The parcel is 97.269 acres in size, with 61.762 acres located within the Critical Area and designated Resource Conservation Area (RCA). Total existing forest coverage onsite within the Critical Area is 20.468 acres (33.19%).

1. We note that a special exception was granted by the Talbot County Board of Appeals for this property with the following conditions:
 - a. Current residential uses of the existing structures cannot change.
 - b. Structures that are currently accessory structures (and which may become principal structures by virtue of the contemplated subdivision) may not be expanded beyond their current footprint.
2. The applicant is permitted three development rights on this parcel. Upon completion of this subdivision, the applicant will have exhausted all three available development rights.
3. The subdivision plat must contain information regarding existing and proposed lot coverage. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this subdivision. Under these provisions, a development project whose initial application for development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is

approved (recorded) by July 1, 2010 may utilize Talbot County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that:

- a) The approved development plan remains valid in accordance with Talbot County's procedures and requirements; and
- b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Talbot County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this subdivision in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

4. The applicant is currently providing a 100-foot Buffer on the site plan. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement, as stated in Chapter 119 of the 2008 Laws of Maryland.
5. The applicant must receive an updated letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite, as the latest letter on record is from 2005.
6. The property is partially located within Forest Interior Dwelling Bird (FIDS) habitat. While it is our understanding that, at this time, no development or clearing is proposed within the FIDS habitat area at this time, we suggest that the applicant place on a note on the site that restricts forest clearing within the FIDS habitat, and ensures that the site meets the requirements for FIDS protection found in §190-88 and §190-93 of the Talbot County Code.
7. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1.
8. As noted on the plat, Individual piers on Lots 1, 2, and 3 are restricted.

Thank you for the opportunity to provide comments on this subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 813-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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October 29, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Canzoniero Variance
A136**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced variance request. The applicant is proposing to construct an attached garage addition, a portion of which is located within the 100-foot Buffer. The parcel is 3.044 acres in size and is designated Limited Development Area (LDA). The parcel is currently developed with a one-story dwelling unit, garage, shed, pool, patio, sidewalks, walls, and paved driveway. Total existing lot coverage onsite is 19,599 square feet (14.78%). If the variance is granted, the applicant will remove 600 square feet of paved driveway and construct a 600 square foot garage; thus, total lot coverage will remain unchanged.

The State law provides that variances to a local jurisdiction's Critical Area program may be granted only if the Planning Officer can find that an applicant has satisfied its burden to prove that the project meets each and every one of the county's variance standards, including the standard of unwarranted hardship. The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law.

In evaluating the information submitted by the applicant, including the number of structures located onsite, that the applicant currently has use of a two-car brick garage with utility spaces as well as enjoys an existing garage as part of the dwelling, and that the dwelling unit, pool, patio and several other structures are located within the Buffer, it appears that the applicant currently enjoys reasonable and significant use of this property. Therefore, we question whether how the applicant would be denied reasonable and significant use of the property if the variance is denied. As previously stated, the County must find that the applicant meets all five variances standards in order to grant the request. We recommend that the Planning Officer give particular consideration in this case to whether the standards of unwarranted hardship and the standard that

the variance is in keeping with the general spirit and intent of the Critical Area Law have been met.

Thank you for again for providing information on this administrative variance request. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 608-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Ren Serey
Executive Director

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October 29, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

Re: L1071
Tyler Lot Line Revision

Dear Ms. Verdery:

Thank you for providing information on the above-referenced minor revision plat. The applicant proposes to abandon an existing lot line between two parcels (Parcel 23, Parcel 24) for the establishment of a new septic disposal area for an existing dwelling. Both parcels are located in a Resource Conservation Area (RCA). Parcel 23 is 9,193 square feet in size and is currently developed with a one story dwelling unit. Parcel 24 is 5,779 square feet in size and is developed with a two-story dwelling unit and shed; the dwelling unit and shed on this parcel are proposed to be razed.

Based on the information provided, we have the following comments on this proposal:

1. The applicant must provide 496 square of additional forested vegetation to meet the 15% afforestation requirement.
2. As mentioned in our previous letter, this property is currently developed in a nonconforming manner; that is, two dwelling units exist on separate RCA parcels that are less than 20 acres in size. By agreeing to this lot line revision, the applicant appears to be forfeiting the right to the second dwelling unit in perpetuity. Please verify the County's understanding and position on this fact.

Thank you for the opportunity to provide comments on this revision plat. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: TC 223-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
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Executive Director

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October 31, 2008

Lillian Lord
Town Administrator
100 North Morris Street
P.O. Box 339
Oxford, Maryland 21654

**Re: Town of Oxford Department of Public Works Arsenic Removal System
Consistency Report**

Dear Ms. Lord:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The Town proposes to install approximately 400 linear feet of four-inch pipe and duct bank from a well head into the Department of Public Works (DPW) building. Additionally, a drinking water treatment system for arsenic will be installed inside the DPW building. The property is 12.8 acres in size and is designated Resource Conservation Area (RCA). Total area of disturbance onsite is 3,500 square feet.

After reviewing the consistency report, this office agrees that the project is generally consistent with the Town of Oxford Critical Area Program for the reasons outlined below.

1. No impacts to the 100-foot Buffer are proposed.
2. Total forest coverage onsite is 1.6 acres. No forest clearing will occur during the course of this project.
3. No new lot coverage is proposed.
4. The project is exempt from stormwater management as well as sediment and erosion control plans.
5. There are no tidal or non-tidal wetland impacts.
6. There are no Habitat Protections Areas onsite.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly". The signature is written in dark ink and is positioned above the printed name.

Nick Kelly

Natural Resources Planner

cc : OX 619-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
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November 5, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

Re: **L1074**
Price Lot Line Revision

Dear Ms. Verdery:

Thank you for providing additional information on the above referenced lot line revision. The applicant is requesting a lot line revision between two existing parcels (Tax Parcel 14, Tax Parcel 24). Both parcels are located partially in a Rural Conservation Area (RCA). Tax Parcel 14 was originally 174.365 acres in size, with no acreage within the Critical Area RCA; upon the approval of this line revision, total acreage will decrease to 148.239 acres, with 9.008 acres located in the Critical Area RCA. Tax Parcel 24 is currently 162.038 acres in size, with 56.451 acres located in the Critical Area RCA; upon approval of the line revision, total acreage will increase to 188.164 acres, with 47.443 acres located in the Critical Area RCA. Currently, there is no impervious surface existing in the Critical Area for either parcel; Tax Parcel 24 allots 58,858 square feet of impervious surface, and Tax Parcel 14 allots 309,993 square feet of impervious surface. Total forest coverage on Tax Parcel 14 is 253,102 square feet (64.5%), and total forest coverage on Tax Parcel 24 is 898,647 square feet (43.4%).

Based on the information provided, this office has the following comments:

1. In our March 19, 2008 letter, Commission staff expressed concern over the line revision as proposed, as the proposal creates a new non-conforming parcel within the RCA. Specifically, the line revision appears to constitute a subdivision within the Critical Area, creating a pocket of RCA land on revised Tax Parcel 14 which is less than the required 20-acre minimum, and which did not previously exist. Should the applicant wish to reconfigure the lots to include RCA lands, the resulting parcels must comply with the current standards in the law and not create a new, non-conforming parcel of RCA land. Despite the fact that the applicant states that these lands will be designated as a

Reservation of Development Rights (RDR) area and therefore undevelopable, the applicant should redraw the line revision to include enough land within Revised Tax Parcel 14 to conform with the 20-acre minimum RCA standard.

2. Pending resolution of comment #1, the RDR portion of any lot should not be specifically permitted an amount of lot coverage.
3. If forest is cleared for any development on the Critical Area portion these parcels in the future, mitigation will be required. If up to 20% of forest is cleared from the parcel, then mitigation at a ratio of 1:1 is required; if clearing is between 20% and 30%, then mitigation is 1.5:1; clearing of over 30% of the site requires 3:1 mitigation.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: TC 138-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

November 6, 2008

Arnold Norden, Maryland Park Service
Maryland Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

**Re: Elk Neck State Park, Chesapeake Gateway Signs
2008-DNR-089**

Dear Mr. Norden:

At its meeting on November 5, 2008, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the Chesapeake Gateway Signs Project. Please note that should any changes to the site plan be proposed in the future, additional review and approval by the Commission will be required, and a planting plan will be required for the proposed mitigation onsite.

Thank you again for your help with this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: file

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 6, 2008

Larry Thomas
Maryland Transportation Authority
300 Authority Drive
Baltimore, MD 21222

**Re: Maryland Transportation Authority
Fairfield Area Water Line Replacement**

Dear Mr. Thomas:

At its meeting on November 5, 2008, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the Fairfield Area Water Line Replacement project with the following condition:

- Prior to the start of construction activities, the Maryland Transportation Authority shall obtain erosion and sediment control and stormwater management authorizations from the Maryland Department of the Environment and submit copies of the authorizations to Commission staff.

This condition will be satisfied once these permits are submitted to this office for inclusion in the Commission's files.

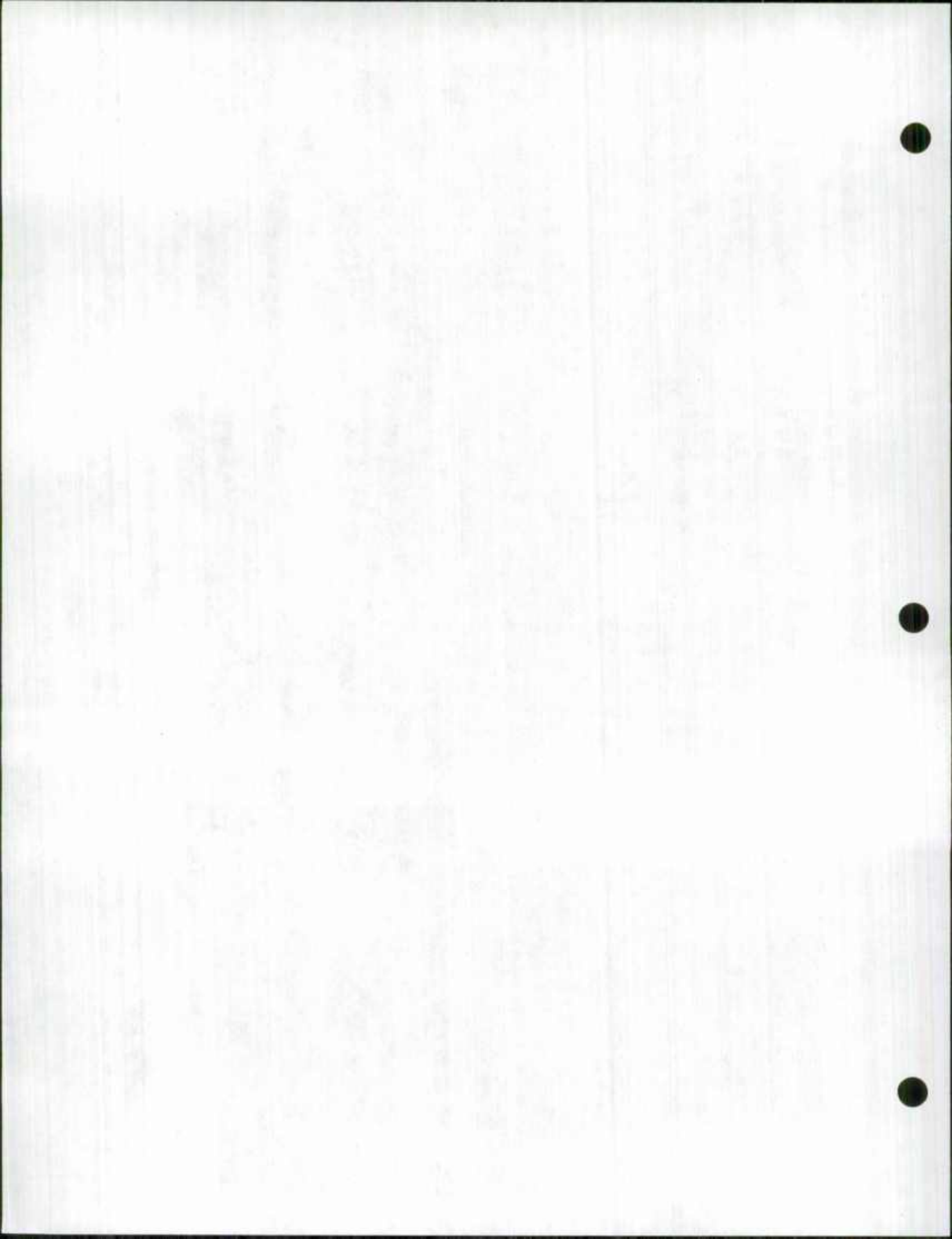
Thank you for all your help in providing information for this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly

Natural Resource Planner

cc: Dennis Barnes, Carroll Engineering, Inc.
40-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 6, 2008

Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: Hatton's Garden Buffer Management Plan

Dear Ms. Renshaw:

At its meeting on November 5, 2008, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the Hatton's Garden Buffer Management Plan with the following conditions:

1. The applicant will revise Critical Area Buffer Restrictions Note #5 to state the following:
"Waters adjacent to the site are known as historic waterfowl concentration areas. Therefore, time of year restrictions for shoreline work will apply between November 15 and March 1."
2. The applicant will relocate the mitigation site for pier and trail impacts on Sheet 3 so that it is adjacent to the 100-foot Buffer in the afforestation area.
3. Within 90 days of Commission approval, the applicant will submit a final version of the Buffer Management Plan to Commission staff for inclusion in the Commission's files.

These conditions will be satisfied once the Town of St. Michaels submits a revised Buffer Management Plan that addresses the aforementioned changes.

Thank you for all your help in providing information for this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: file

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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November 7, 2008

Mr. Anthony DiGiacomo, AICP
Cecil County Government
Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Fieldstone Final Plat
Tax Map 52, Parcel 455**

Dear Mr. DiGiacomo:

Thank you for providing information regarding the final plat for the above referenced subdivision. The applicant is seeking to develop a six lot subdivision. The entire parcel is 57.19 acres; 6.80 acres are located in the Critical Area and designated Resource Conservation Area (RCA). Only portions of Lot 1 are located in the Critical Area.

As stated in the Cecil County Zoning Ordinance, Article XI, §191, the Critical Area District was created to implement zoning regulations and measures that will protect and enhance water quality and habitat resources. In addition, the intent of the Critical Area District is to provide protection for the natural resources located in the Critical Area and to foster more sensitive development activity in shoreline areas that minimizes adverse impacts to water quality and natural habitats. To ensure this is accomplished, the County has stated that no development activity shall be permitted until the approving authority makes specific findings that the proposed development or activity is consistent with the goals and objectives of the Cecil County Critical Area Program.

Considering these regulations, Commission staff has concerns on whether the plat, as shown, is consistent with the spirit and intent of the Critical Area Program. In particular, the plat does not refer to the site's Environmental Assessment, which provides clear information on how the proposed development addresses the Critical Area's goals and objectives. Furthermore, the final plat should provide references to Buffer restrictions, Habitat Protection Areas, FIDS habitat, forest coverage located onsite, and forest mitigation. While we understand that the County's current requirements do not call for these notes to be placed on the final plat, these notes should

be added to ensure that an approved plat within the County is consistent with the Critical Area regulations found in §191 of the Cecil County Code. We note that the Critical Area regulations within the Cecil County Zoning Code supersede any inconsistent law, section, plan or program of the County (§191).

Additionally, I am unaware whether my comments provided in my October 16, 2008 letter regarding the Environmental Assessment (EA) have been addressed. A revised version of these comments is provided below:

1. It is difficult to delineate the 110-foot stream Buffer on the final plat. Please use a different symbol or font to more clearly depict this from the limits of the tidal floodplain and wetlands buffer symbols.
2. The two areas of RCA on Lot One must be separately identified on both the Environmental Assessment (EA) and final plat. Any proposed development in the RCA must meet all development standards individually. For example, the proposed lot coverage for the area in the RCA located adjacent to Stony Battery Road is 15% of that portion of the RCA only; the remaining portion would have a 15% lot coverage limit as well. Please have the applicant provide the amount of lot coverage attributable to each RCA area on both the EA and final plat.
3. It is unclear if the Buffer has been expanded for steep slopes. Applicants must extend the Buffer for steep slopes according to the Cecil County Zoning Ordinance §196.3.c and COMAR 27.01.09.01C(7), which states that "...In the case of contiguous slopes 15 percent or greater, the Buffer shall be expanded four feet for every one percent of slope, or the top of the slope, which is greater in extent." In order to verify its accuracy, please have the applicant provide samples of the methodology used on this site to calculate the expanded Buffer.
4. It is unclear if the Buffer has been expanded for any hydric soils that may be located onsite, as requested in prior letters. The 110-foot Buffer must be expanded for hydric soils, as stated in §196.3.b of the Cecil County Zoning Ordinance. It is our understanding that hydric soils are located adjacent to the nontidal wetland area.
5. GIS data has determined that FIDS Habitat is located onsite. While it is our understanding that no development or clearing is proposed within the FIDS habitat area at this time, we suggest that the applicant place this area in an easement to avoid any future development to this sensitive habitat area. In addition, the applicant should forward to this office a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite.
6. The EA, as well as the final plat, should, at a minimum, include the following information in the notes section:

- a. Information stating that the 100-foot and Expanded Buffer will be fully forested in three-tier vegetation, as found in COMAR 27.01.09.01 and §196.3 of the Cecil County Code, must be included as a note on the Environmental Assessment.
 - b. Information indicating the presence of FIDS habitat and the requirement for any disturbance of this area to comply with Cecil County development restrictions.
 - c. No disturbance is permitted within the 100-foot and expanded Buffer per §196 of the Cecil County zoning Ordinance.
 - d. The amount of forest coverage located onsite within the Critical Area. The site must maintain 15% forest coverage (1.02 acres) within the Critical Area.
 - e. Mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing. For clearing within 20-30%, mitigation shall be 1:5-1, and for clearing over 30%, mitigation shall be 3:1.
7. Please delineate the driveway and building envelope for Lot 1 on the final plat and EA, to ensure that the applicant meets all development standards within the Critical Area when developing this lot.

Thank you for the opportunity to provide comments on this final plat. Please have the applicant provide the final, approved version of the final plat and environmental assessment to ensure that the comments provided in this letter have been adequately addressed.

If you have any questions, please contact me at (410) 260-3483.

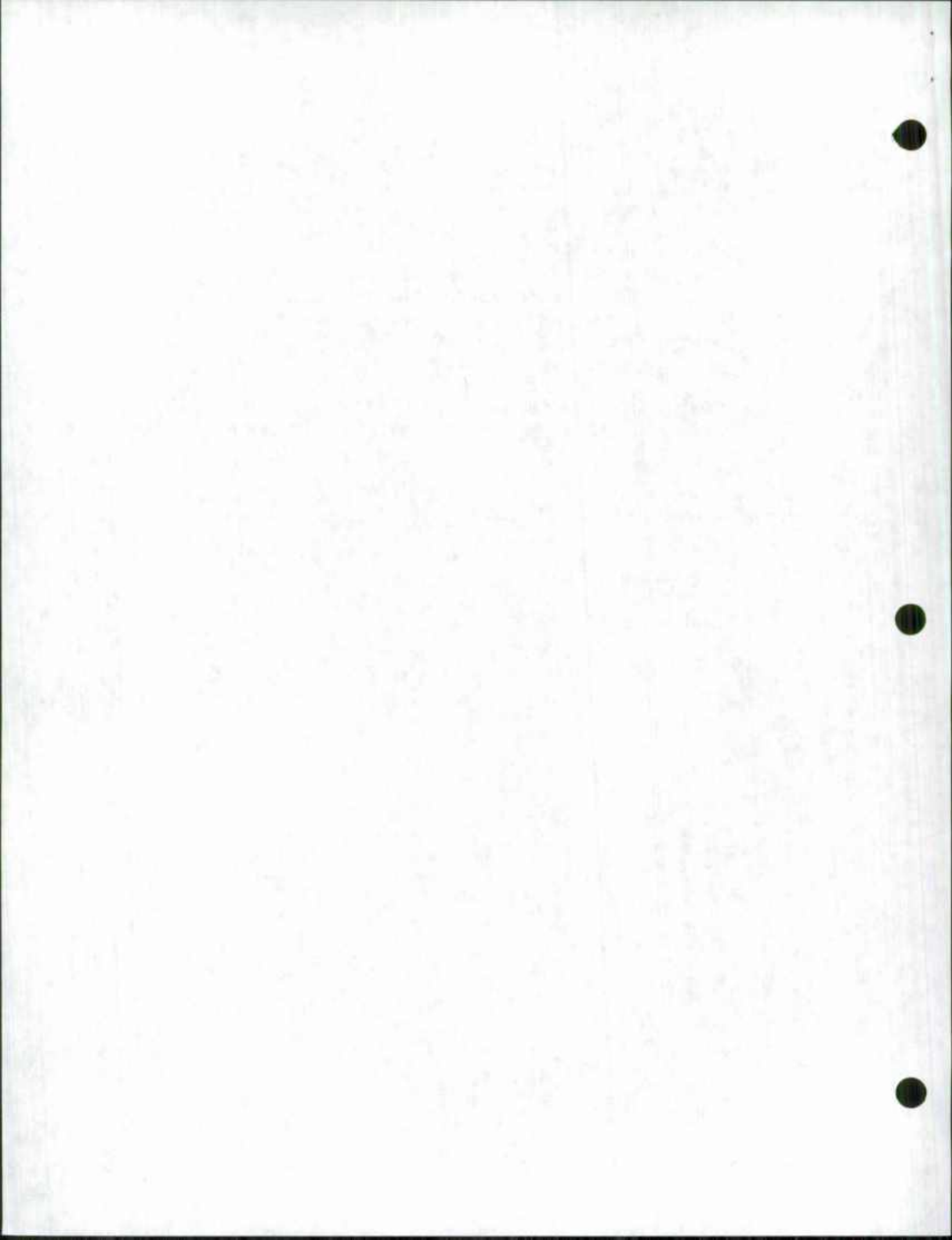
Sincerely,



Nick Kelly

Natural Resource Planner

cc: CE 554-06



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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November 10, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Walker Subdivision Final Plat
TM 41, P 351 & 385**

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above-referenced subdivision. The applicant proposes to create a three-lot subdivision over two parcels. The site is 11.54 acres in size, with 1.5261 acres located in the Critical Area and designated Resource Conservation Area (RCA).

As stated in the Cecil County Zoning Ordinance, Article XI, §191, the Critical Area District was created to implement zoning regulations and measures that will protect and enhance water quality and habitat resources. In addition, the intent of the Critical Area District is to provide protection for the natural resources located in the Critical Area and to foster more sensitive development activity in shoreline areas that minimizes adverse impacts to water quality and natural habitats. To ensure this is accomplished, the County has stated that no development activity shall be permitted until the approving authority makes specific findings that the proposed development or activity is consistent with the goals and objectives of the Cecil County Critical Area Program.

Considering these regulations, Commission staff has concerns on whether the plat, as shown, is consistent with the spirit and intent of the Critical Area Program. In particular, the plat does not refer to the site's Environmental Assessment (EA), which provides clear information on how the proposed development addresses the Critical Area's goals and objectives. The EA is of considerable importance based upon the location of FIDS habitat within the Critical Area. This office has not reviewed an EA for the site. We request that a copy of the EA be submitted to this office for review and comment prior to final plat approval. However, if the County has determined that an EA is not required for this site,

then we recommend that the final plat should provide references to restrictions for FIDS habitat to demonstrate compliance with the County's Critical Area Program and regulations found in §191 of the Cecil County Code. We note that the Critical Area regulations within the Cecil County Zoning Code supersede any inconsistent law, section, plan or program of the County (§191).

Additionally, we have the following comments:

1. GIS maps reveal that FIDS Habitat is located onsite. While it is our understanding that no development or clearing is proposed within the FIDS habitat area at this time, we recommend that the applicant place this area in an easement to avoid any future development to this habitat.
2. Any future development of the RCA portion of this site must comply with the local Critical Area Program and Critical Area Law and Criteria.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: CE 322-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 10, 2008

Mr. Anthony DiGiacomo
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

**Re: Curtis Subdivision
TM 58 P 76**

Dear Mr. DiGiacomo:

Thank you for providing information regarding the above referenced subdivision. The applicant is proposing to create two lots (2A and 2B) from the original Lot 2; both proposed lots are located outside of the Critical Area. Lot 2C is partially located within the Critical Area and is designated Resource Conservation Area (RCA). The parcel is 36.215 acres in size; 10.05 acres is located within the Critical Area. No development activities are proposed within the Critical Area portion of Lot 2C.

As stated in the Cecil County Zoning Ordinance, Article XI, §191, the Critical Area District was created to implement zoning regulations and measures that will protect and enhance water quality and habitat resources. In addition, the intent of the Critical Area District is to provide protection for the natural resources located in the Critical Area and to foster more sensitive development activity in shoreline areas that minimizes adverse impacts to water quality and natural habitats. To ensure this is accomplished, the County has stated that no development activity shall be permitted until the approving authority makes specific findings that the proposed development or activity is consistent with the goals and objectives of the Cecil County Critical Area Program.

Considering these regulations, Commission staff has concerns on whether the plat, as shown, is consistent with the spirit and intent of the Critical Area Program. In particular, the plat does not refer to the site's Environmental Assessment (EA), which provides clear information on how the proposed development addresses the Critical Area's goals and objectives. Furthermore, this office requested a copy of the EA for review and has not received a copy. We request that a copy of the EA be submitted to this office for review and comment prior to final plat approval. However, if the County has determined that an EA is not required for this site, then we

recommend that the final plat provide references to Buffer restrictions, Habitat Protection Areas, FIDS habitat, and forest coverage located onsite to demonstrate compliance with the County's Critical Area Program and regulations found in §191 of the Cecil County Code. We note that the Critical Area regulations within the Cecil County Zoning Code supersede any inconsistent law, section, plan or program of the County (§191).

Additionally, it appears that several of the comments provided in my July 25, 2008 letter have not been addressed. A revised version of these comments is provided below, along with additional comments:

1. It appears that the applicant has not properly delineated the 110-foot Buffer on the final plat. Particularly, it appears from that mixed alluvial soils, nontidal wetlands, and steep slopes are all located adjacent to the Buffer. The Buffer shall be expanded for hydric or highly erodible soils, steep slopes, and/or nontidal wetlands that are located contiguous to the Buffer. Please have the applicant revise the final plat to accurately show the 110-foot and Expanded Buffer. A final plat should not be approved without an accurate delineation of the 110-foot and expanded Buffer.
2. Any future development on this property should be located outside of the 110-foot Buffer and the Expanded Buffer. Please include a note on the final plat stating per Section 196 Cecil County Code, that disturbance to the 110-foot and expanded Buffer is prohibited.
3. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. Impacts will need to be addressed based on the recommendation from the Maryland Department of Natural Resources. Please forward a copy of the letter to this office.
4. GIS maps reveal that FIDS Habitat is located onsite. While it is our understanding that no development or clearing is proposed within the FIDS habitat area at this time, we suggest that the applicant place this area in an easement to avoid any future development to this sensitive habitat area. At a minimum, please add a note to the plat indicating the presence of FIDS habitat and the requirement for any disturbance of this area to comply with Cecil County development restrictions. .

Thank you for the opportunity to provide comments on this subdivision request. Please have the applicant provide a copy of the final plat the comments provided in this letter have been adequately addressed. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: CE 323-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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November 12, 2008

Amanda M. Paoletti
Cecil County Government
Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**RE: Bohemia Crossing Subdivision
Environmental Assessment and Preliminary Development Plan
TM 54, Parcels 11 and 33**

Dear Ms. Paoletti:

Thank you for providing information regarding the environmental assessment (EA) and preliminary development plan for the above referenced minor subdivision. The applicant is proposing to create an 18-lot subdivision. The site area is 50.25 acres, of which 6.19 acres is located within the Critical Area and designated Resource Conservation Area (RCA). No development is proposed within the RCA portion of the project.

Based on the information provided, we have the following comments:

1. It does not appear that the 110-foot Buffer has been properly expanded for steep slopes on either the EA or the preliminary development plan. Applicants must extend the Buffer for steep slopes according to the Cecil County Zoning Ordinance §196.2.b. and COMAR 27.01.09.01C(7), which states that "...In the case of contiguous slopes 15 percent or greater, the Buffer shall be expanded four feet for every one percent of slope, or the top of the slope, whichever is greater in extent." In addition, the 110-foot Buffer must be expanded for any hydric or highly erodible soils located contiguous to the Buffer. Please have the applicant revise the site plans and EA to reveal an accurate Buffer. Furthermore, in order to verify its accuracy, please have the applicant provide samples of the methodology used on this site to calculate the expanded Buffer.
2. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for

TTY for the Deaf

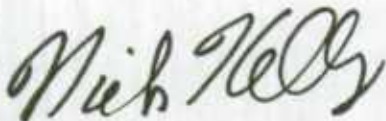
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement, as stated in Chapter 119 of the 2008 Laws of Maryland.

3. The EA, as well as the plat, should, at a minimum, include the following information in the notes section:
 - a. Information stating that the 110-foot and Expanded Buffer will be fully forested in three-tier vegetation, as found in COMAR 27.01.09.01 and §196.3 of the Cecil County Code, must be included as a note on the Environmental Assessment.
 - b. No disturbance is permitted within the 110-foot and expanded Buffer per §196 of the Cecil County zoning Ordinance.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at 410-260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: CE 702-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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November 12, 2008

Mr. Tony DiGiacomo
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Revised Record Plat – Bracebridge Hall
Preliminary Plat and Growth Allocation Request
Habitat Protection Plan**

Dear Mr. DiGiacomo:

Thank you for forwarding the Habitat Protection Plan (HPP) for the above referenced project for review and comment. The applicant is seeking to revise a previously approved subdivision in the Resource Conservation Area (RCA) to include a golf course and potential growth allocation. The proposed design seeks to include a golf course throughout the RCA that is consistent with the Critical Area Commission's "Golf Courses in the RCA" policy document. Further, the applicant is seeking approximately 40 acres of growth allocation in order to change the land designation from RCA to Limited Development Area (LDA) to accommodate the clubhouse, associated facilities, dock area, and twelve lots.

This office provided preliminary comments on the proposed growth allocation May 9, July 1, and October 17, 2008. Further, Kate Schmidt prepared a memo to the Program Subcommittee of the Critical Area Commission in July 2008 to seek guidance regarding the proposal and provide feedback to Cecil County.

Based on the current proposal provided, it appears that many of the comments provided by Commission staff have not been addressed at this time. Several of those comments are reiterated below, along with additional comments based on my review of the Habitat Protection Plan:

1. This office understands that occasionally applicants use the language contained in the 1988 Cecil County Program document to guide them on expanding the 110-foot Buffer for steep slopes. However, as you are aware, Section 196.3.c of the Cecil County Zoning Ordinance contains a different requirement, which is the one that must be used by the applicant. When steep slopes are contiguous to the Buffer, the Buffer must be expanded four feet for every one percent of slope or to the top of slope, whichever is greater. Given

the scale of the HPP at 1"=200' and unclear shading for areas of steep slopes I am unable to absolutely determine whether the Buffer expansion is correct. However, from the information provided, it appears that Buffer was not properly expanded in several areas.

I would advise the applicant to prepare a separate exhibit simply showing the Buffer at a better scale and more clearly showing areas of steep slopes. In addition, I recommend the applicant include a series of transects and an accompanying table that identify the percent of slope and the calculation used to determine the extent of the expansion. The methodology used for expansion should be consistent throughout the property. I am available for any further guidance or assistance on this issue as necessary.

2. Based on overlays from the Cecil County GIS website, and based upon a prior subdivision application for this parcel in 2004, it appears that there are several streams located onsite that have not been shown on the current site plan or have been labeled as drainageways. The 2008 changes to the Critical Area law amended the definition of a tributary stream to mean a "perennial or an intermittent stream within the Critical Area *that has been identified by site inspection* or in accordance with local program procedures approved by the Commission". Further, as of July 1, 2008 all the requirements of the Critical Area law shall apply, and be applied, by a local jurisdiction. Therefore, *unless and until* the County amends its Critical Area Program to include other provisions for identifying streams and these procedures are approved by the Commission, site inspection is the only possible methodology under the law for the identification of streams. A Jurisdictional Determination is not an appropriate substitute for an on-site inspection.
3. Based on Comment #2 above, this office has requested a site visit to the property to review the areas of the GIS map which indicate streams. It is our understanding that the applicant will meet with Commission staff and staff from the Maryland Department of the Environment (MDE) in the near future for a site inspection.
4. The applicant has labeled the 300-foot setback as the "expanded CBCA Buffer (for golf course)." In many circumstances, however, it appears that the expanded Buffer and 300-foot setback differ in distance from the edge of Mean High Water. Please clearly delineate the 300-foot setback and expanded 110-foot Buffer on each plan.
5. The Maryland Department of Natural Resources Wildlife and Heritage Service mentioned that a Habitat Protection Area is located along the shoreline of McGill Creek. This is an area of extensive marshes that provides habitat for colonial water birds, waterfowl, and aquatic mammals. This area also provides nursery habitat and is a location for detritus production, which forms the basis of important aquatic and terrestrial food webs. The riparian forests located by McGill Creek also provide a corridor for movement of birds and other wildlife.

In reviewing the HPP, it appears that the applicant has not mentioned McGill Creek as a Habitat Protection Area. The applicant should note this on all plans and explain how this area will be protected.

6. A note should be added to all plans stating the time-of-year and construction restrictions for any development within the bald eagle protection areas.
7. We note that a minimum 150-foot Buffer should be maintained around streams, per the Commission's Golf Courses in the RCA policy.
8. The site plan shows an expanded parking lot and building in the Buffer near the boat dock. It is my understanding that the applicant intends to provide uses beyond twelve boat slips for the proposed lots in the Critical Area, such as a water taxi. Please provide clarification on whether the pier and slips will be limited to use by the residents of the twelve lots within the development envelope, will be available to golf course patrons, or will be accessible by all members of the public. The parking lot should be relocated outside the Buffer, as parking areas are not considered water-dependent facilities.
9. A portion of Dock End Drive, which serves lots 102-105 in the Critical Area, and the proposed kayak storage area are both located within the 300 foot setback. The 2008 changes to the Critical Area law require that a 300 foot setback is provided when a new LDA is located in a RCA unless the County proposes and the Commission approves alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources. While the existing drive accessing the water is allowed in the Buffer, the applicant should revise the site plan to relocate Dock End Drive outside of the 300-foot setback and within the development envelope since it serves the four lots. Similarly, the proposed kayak storage building should be located outside the 300-foot setback.
10. All provided plans and associated documentation state that the applicant is requesting "40+/-" acres of growth allocation. The submittal to the Critical Area Commission must state an exact amount of growth allocation requested. We note that the newly proposed development envelope includes the dock area and McGill Creek Farm Lane; however, the amount of growth allocation requested (40+/- acres) has remained the same. Please have the applicant clarify this issue.
11. Please change all references of "Chesapeake Bay Critical Area" to either "Critical Area" or "Critical Area for the Chesapeake and Atlantic Coastal Bays."
12. Please revise all references of "impervious surface" to "lot coverage."
13. The applicant provides the amount of lot coverage within the RCA portion of the site. Please have the applicant provide the amount of lot coverage proposed within the development envelope (area whose designation will be changed from RCA to LDA).

14. A trail is proposed within the 110-foot Buffer and expanded Buffer. We note that private trails that run parallel to the shoreline are not permitted within the 110-foot or expanded Buffer. We recommend that the applicant redesign the trail to be located outside the Buffer, or that the applicant enact provisions to utilize the trail for public use. A publicly designed trail should meet the design provisions contained in the Critical Area Commission's Public Walkways Guidance paper.
15. On the conceptual Buffer Management Plan (BMP), the applicant states that "Vista Pruning" will occur onsite to "create or maintain selective views of the water resources." In addition, the BMP shows that several areas will be planted with only native shrubs or groundcover, while the Habitat Protection Area document states that selected areas of the Buffer will have vegetation removed to provide views (page 5). Finally, the EA states that the Buffer will be planted in 3-tier vegetation, but also mentions tree and root pruning. It is unclear if these activities will occur within the Buffer.

We continue to stress that the 110-foot and Expanded Buffer must be fully forested in 3-tier vegetation. Further, we *strongly* recommend that the applicant revise all submittals at this stage of the approval process to provide a fully forested Buffer, add a note referencing this requirement to all plans, and also add a note to all plans that clearly state that no pruning will occur within the Buffer area. This is required, as found in COMAR 27.01.09.01 and §196 of the Cecil County Code. In addition, we note that when this project was discussed with the Program Subcommittee in July 2008, the applicants were informed that the Buffer would need to be fully established with forest vegetation.
16. While it is our understanding that no development or clearing is proposed within the Forest Interior Dwelling Bird (FIDS) habitat area that exists onsite, we suggest that the applicant place on a note on all plans that restricts forest clearing within the FIDS habitat, and ensures that the site meets the requirements for FIDS protection found in §197 of the Cecil County Zoning Code.
17. The EA should show areas of steep slopes and hydric soils onsite, to ensure that the Buffer is properly expanded.
18. Information addressing that the project will meet the Critical Area requirements for the protection of forest and developed woodlands in the RCA and LDA, as found in §200.6 of the Cecil County Code, should be noted on the BMP, EA.
19. Information stating how the project meets the guidelines of Maryland Department of Natural Resources Wildlife and Heritage Service and §197 of the Cecil County Code to protect the Habitat Protection Area onsite should be noted on the BMP.

Mr. Tony DiGiacomo
Bracebridge Hall
October 17, 2008
Page 5 of 5

20. A note should be added to all plans stating that mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing. For clearing within 20-30%, mitigation shall be 1:5-1, and for clearing over 30%, mitigation shall be 3:1.

Finally, as we have previously mentioned, we have concerns on whether the proposed development envelope is clustered, whether the applicant is providing public access, and whether the Buffer Management Plan is suitable for review and approval by the Commission. These issues may be the cause of significant discussion when the project is brought forth to the Commission for review and approval. Lastly, I would like to remind the County that the County Commissioners must provide documentation and information with their submittal to this office regarding how they applied the standards and factors to be considered found in Natural Resources Article 8-1808.1.

Thank you for the opportunity to provide comments. If you have questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resources Planner
cc: CE 202-06
Mr. James Keefer, MRA

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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www.dnr.state.md.us/criticalarea/

November 19, 2008

Lynn Thomas
Town of Easton
14 South Harrison Street
P.O. Box 520
Easton, MD 21601

Re: Londonderry Buffer Management Plan

Dear Mr. Thomas:

In December 2007, the Critical Area Commission approved growth allocation for the Londonderry project, changing the designation of 7.513 acres of land from Limited Development Area (LDA) to Intensely Developed Area (IDA). As a condition of approval, the applicant was required to submit a Buffer Management Plan to Commission staff for review and approval that provides a fully vegetated Buffer area.

At this time, staff has reviewed the Buffer Management Plan submitted by the applicant. In order for the Buffer Management Plan to be approved by Commission staff, we request that the applicant provide clarification and additional documentation on the following:

1. The applicant has indicated that the owner/developer shall warrant required plant material and installations for 2 years from date of substantial completion. Please revise the narrative to indicate the type and amount of surety proposed by the applicant to warrant the plantings. Also, please revise the narrative to be clear that a three-year maintenance and monitoring period is intended, with monitoring reports provided to the Town of Easton and to Commission staff after one growing season and after three growing seasons. The planting must be adequately bonded or otherwise ensured to provide a 90% survival rate at the end of the three-year period.
2. While the narrative generally includes the stock size of the proposed plantings, the stock sizes the proposed trees should be amended such that trees of a minimum 2" caliper size are provided. This is consistent with the Commission's policy paper on Forest Mitigation as well as with Buffer establishment policies.

Please have the applicant forward the additional information requested above to this office for review. Thank you again your assistance with this project. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

A handwritten signature in black ink that reads "Nick Kelly". The signature is written in a cursive, slightly slanted style.

Nick Kelly

Natural Resource Planner

cc: EA 224-08-73-07

Bill Stagg, Lane Engineering

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 19, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Courthouse
Easton, Maryland 21601

**Re: Spedalere and Buzi Subdivision
S1036, TM 31, P16**

Dear Ms. Verdery:

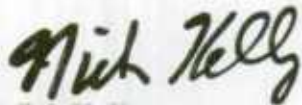
Thank you for providing information on the above referenced subdivision request. The applicant is proposing to develop a two lot subdivision. The parcel is 3.711 acres in size and is designated Limited Development Area (LDA). Total existing lot coverage onsite is 9,214 square feet (5.6%). Total existing forest coverage onsite within the Critical Area is 0.98 acres (26.35%).

1. It appears that this application was filed by October 1, 2008 and therefore may qualify to be grandfathered under the County's impervious surface area limits and policies in place prior to July 1, 2008. If the applicant intends for this project to be grandfathered in this sense, please note that Chapter 119 of the 2008 Laws of Maryland requires the applicant to submit a lot coverage plan to the County for review and approval by July 1, 2010. I call your attention to the plan note regarding perviousness of decks. This area is now considered lot coverage due to the gravel underneath. Alternatively, the applicant can apply the current lot coverage limits and policies. The site plan should be amended to reflect the intent of the applicant in regard to the impervious surface area/lot coverage requirements.
2. The 100-foot and Expanded Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §190-93 of the Talbot County Code. The current note on the site plan only requires this for Lot 2. While we acknowledge that no additional development is proposed on Lot 1 at this time, we recommend that Lot 1 also be established in 3-tier vegetation to the extent possible.

3. The site plan shows an area of nontidal wetlands adjacent to tidal wetlands onsite. However, DNR and National Wetlands Inventory maps claim this area to be tidal wetlands. While we understand that a wetland delineation was performed, we recommend that MDE visit the site to determine verify the extent of nontidal wetlands located onsite. The exact determination of the tidal wetlands line will affect the location of the 100-foot Buffer and the amount of buildable area on Lot 2. Lot 2 should be created to have a sufficient buildable area so that development
4. The applicant must receive a letter from the Department of Natural Resources (DNR) Wildlife and Heritage Division evaluating the property to determine if there is the presence of any threatened or endangered species onsite. If present, the applicant must address all recommendations from DNR for protection of this species. Please forward to this office a copy of this letter.

Thank you for the opportunity to provide comments on this subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

A handwritten signature in dark ink, reading "Nick Kelly". The signature is written in a cursive, slightly slanted style.

Nick Kelly
Natural Resource Planner
cc: TC 648-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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November 19, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Tilghman on the Chesapeake Revision Plat
L1094, TM 44 P4**

Dear Ms. Verdery:

Thank you for providing information on the above referenced revision plat. The applicant is requesting a revision of the forest conservation easement areas on Lots 6, 8, 9, 10, 13, 14, 15 and the remaining lands of Phase IV of the Tilghman on the Chesapeake subdivision. The applicant will abandon 0.21 acres of forest conservation area and establish a 0.22 acre conservation area elsewhere on the parcel. The total amount forest conservation area on the parcel will be 3.84 acres, with 2.14 acres located within the Critical Area.

Provided that the applicant is meeting the 15% afforestation requirement within the Critical Area for this subdivision, we have no comments on this revision plat.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

A handwritten signature in black ink that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: file

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
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November 19, 2008

Ms. Elisa DeFlaux
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Trappe Public Landing Fence Enclosure
Consistency Report (TM 54, P 27)**

Dear Ms. DeFlaux:

Thank you for forwarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The County proposes to construct a fence enclosure to house a portable toilet and oil recycle tank. The property is 0.23 acres in size and is designated Resource Conservation Area (RCA). Upon reviewing the submitted materials, this office cannot make a consistency determination at this time. Aerial photography reveals the location of several trees and shrubs on the property. As a result, the submitted forest coverage amounts onsite (0%), as well as the total lot coverage amounts existing and proposed (100%), need to be revised. Once we receive this information, we will be able to make a consistency determination for the project.

Thank you again for your help with this consistency report application. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 628-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 19, 2008.

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Tarr Creek/Turner Line Revision
TM 46 P103 & 105**

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is proposing to revise the lot lines between two Parcels (Tax Parcel 103, Tax Parcel 105). Both parcels are designated Limited Development Area (LDA). Tax Parcel 103 will decrease in size from 2.381 acres to 1.909 acres, while Tax Parcel 105 will increase in size from 0.345 acres to 0.817 acres. If this line revision is approved, current lot coverage on Tax Parcel 103 is 9,064 square feet (10.9%), while current lot coverage on Tax Parcel 105 is 3,462 square feet (9.7%). There is no existing forest coverage on either parcel.

Based on the information provided, we are unable to support this lot line revision request. The proposed lot line revision is problematic for several reasons. First, the proposed revision creates a second waterfront lot by means of a lot line revision rather than by subdivision. In doing so, riparian rights are created for Tax Parcel 105, a grandfathered parcel of record, that previously did not exist. The creation of a second waterfront lot results in an increase in the number and movement of people within the 100-foot Buffer and at the shoreline, which consequently creates additional adverse impacts to water quality and plant and wildlife habitat. This intensification of use at the shoreline is contrary to the spirit and intent of the Critical Area Law and Criteria and should not be permitted by approval of a lot line revision.

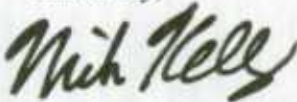
Second, in the context of the proposed lot reconfiguration, it has long been required that a local program shall include procedures to bring grandfathered lands into conformance with Critical Area Program requirements insofar as possible (COMAR 27.01.02.07.B.2.a). Chapter 119 of the 2008 Laws of Maryland now requires that local Critical Area programs shall contain provisions and procedures, including those for lot consolidation and reconfiguration, in order to bring grandfathered lands into conformance with the County's Critical Area Law and Program to the

extent possible. This requirement is intended, in part, to recognize that while impacts to Habitat Protection Areas (HPA), including the Buffer, may be unavoidable in developing individual grandfathered lots of record, opportunities exist to minimize impacts to HPAs where grandfathered lands can be combined and/or reconfigured. The proposed reconfiguration of lot lines in the manner proposed by the applicant creates additional riparian rights and therefore conflicts with the requirements of COMAR and the 2008 Laws of Maryland in the context of lot consolidation and reconfiguration.

Finally, we note that the recent Critical Area legislation requires local jurisdictions to submit their existing lot consolidation and reconfiguration procedures to the Commission and authorizes the Commission to develop regulations on this subject. If the County does not intend to revise its ordinance at this time to incorporate specific provisions regarding lot line reconfigurations and consolidations, we recommend that the County make findings specific to how the proposed lot line revision brings the grandfathered lands in question into conformance with the Critical Area Law and Criteria to the extent possible.

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

A handwritten signature in black ink that reads "Nick Kelly". The signature is written in a cursive, slightly slanted style.

Nick Kelly
Natural Resource Planner
cc: TC 722-04

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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November 20, 2008

Mr. Stephen O'Connor
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

**Re: McLeer Subdivision
TM 42, P 5**

Dear Mr. O'Connor:

Thank you for providing information regarding the above referenced subdivision. The applicant is proposing to create a two lot subdivision. The parcel is 338.79 acres in size, with 203.65 acres located in the Critical Area designated as Resource Conservation Area (RCA). A total of 4.45 acres will be subdivided; the remaining area will be placed in a Maryland Agricultural Land Preservation Easement. Total existing lot coverage onsite is 24,770 square feet (12.77% of the proposed subdivision area, 0.2% of the RCA); upon completion of this project, total lot coverage will increase to 34,770 square feet (17.9% of the subdivision area, 0.3% of the RCA).

Based on the information provided, we have the following comments on this subdivision request:

1. The site plan shows that most of the site planned for development is located within the Critical Area. However, GIS layers from the County and from our offices appear to show the existing house and pool is located well outside the Critical Area line. We recommend that the applicant verify with the County the correct amount of site that is located within the Critical Area. Our remaining comments are provided, based on the assumption that the plan, as provided, is accurate.
2. It is unclear where the lot line separating Lot 1 and Lot 2 is located. Please have the applicant revise the site plan to more clearly show this division.
3. Please add a note indicating the number of allowable dwelling units permitted in the RCA that meets the 1 dwelling unit per 20 acre density limit. The note should also indicate the number of development rights used and the number of development rights remaining.

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

4. Please have the applicant provide a lot coverage table for each lot that provides the amount of coverage associated to each structure. Both lots must meet the 15% lot coverage restriction, as stated in §200.8 and §201 of the Cecil County Zoning Ordinance. Lot Coverage includes the area of the lot that is occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material. Lot coverage does not include a fence or wall that is less than one foot in width that has not been constructed with a footer, a walkway in the Buffer or expanded Buffer (including a stairway), that provides direct access to a community or private pier, a wood mulch pathway, or a deck with gaps to allow water to pass freely. The lot coverage table should be added to both the Environmental Assessment (EA) and the final plat.
5. The site plan states that the project is exempt from Forest Conservation Regulations. However, the project is still subject to Critical Area forest mitigation requirements, as found in §200.6.b of the Cecil County Zoning Ordinance and COMAR 27.01.02.04.C. No more than 20% percent of forest or developed woodland within the site proposed for development may be removed, unless the applicant receives permission by the County to clear up to 30%. The remaining 80% shall be maintained as forest cover through the use of appropriate instruments, such as surety in the form of a performance bond. Mitigation for clearing up to 20% of the existing forested area in the Critical Area must be provided at a 1:1 ratio, and if the applicant receives permission to clear up to 30%, the total cleared area must be mitigated at a 1.5:1 ratio. The amount of forest coverage retained, as well as the amount of mitigation provided for clearing, should be noted on the EA and on the final plat.
6. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. Impacts will need to be addressed based on the recommendation from the Maryland Department of Natural Resources and incorporated into the EA.
7. GIS maps reveal that potential FIDS Habitat is located onsite. As stated in the Cecil County Zoning Ordinance §197.12.b(3), the applicant is required to utilize the guidance found in the Commission's *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake*, which is attached to this letter, if the Department of Natural Resources Wildlife and Heritage Service notes the potential of FIDS in their review. Besides providing measures to protect FIDS habitat, this guidance also includes mitigation measures for any disturbance to FIDS habitat that is unavoidable.

In reviewing aerials of the site, it appears that the entire Critical Area portion of the parcel is likely to be noted as FIDS habitat. Most of this area is considered to be FIDS interior, which is forest area found greater than 300 feet from the forest edge. Mitigation is required at a 1:1 ratio for direct impacts to all FIDS habitat, as well as an additional 2:1 mitigation for the area of FIDS interior that is lost. In reviewing the plan provided, it appears that the applicant may be required to provide a significant amount of FIDS mitigation, in excess of 13 acres. A FIDS Mitigation Analysis sheet for this development activity must be submitted to this office for review and comment as part of the EA.

8. Based on our previous comment, we recommend that the applicant reconsider the location of the proposed subdivision to minimize impacts to FIDS interior habitat.
9. A note regarding the presence of FIDS habitat, the amount of FIDS habitat impacted, the amount of FIDS mitigation required, and measures to protect this area should be noted on the EA and on the final plat.
10. We note that Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains a provision that states, "notwithstanding any provision in a local law or ordinance, or the lack of a provision in a local law or ordinance, all of the requirements of this subtitle shall apply to, and be applied by, a local jurisdiction as minimum standards for a program sufficient to meet the goals of the Critical Area Program." COMAR 27.01.02.04.C(3) states that all forests that are allowed to be cleared shall be replaced in the Critical Area on not less than an equal area basis, while COMAR 27.01.02.04.C(4) provides specific mitigation ratios for permitted clearing. Therefore, the County may not waive forest mitigation requirements, as the plan must meet the standard of COMAR 27.01.02.04.C(3) and C(4).
11. A note on the site plan states that the remaining area of Parcel 5 is to be placed in a Maryland Agricultural Land Preservation easement. However, a note on the site plan also states that a building permit for remaining lands shall not be issued until the remaining lands are activated as a building lot through the normal subdivision process. Since this land is to be placed into easement, the building permit note should be removed, and a note should be added stating that no future development shall be permitted on Parcel 5. If development is clearly restricted, the development rights note should be modified appropriately.
12. Please have the applicant submit a copy of the recorded Maryland Agricultural Land Preservation easement to this office to be placed in the records for this subdivision application.
13. Staff recommends that a wetland delineation be performed onsite to verify the location of any nontidal wetlands and streams onsite, as well as any tidal wetlands to verify the accuracy of upland acreage.
14. Please have the applicant submit a copy of the EA and Report to this office for review and comment.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: CE 638-08

Attachment

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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November 20, 2008

Mr. Anthony DiGiacomo
Cecil County Department of Planning and Zoning
129 East Main Street
Elkton, MD 21921

**Re: Elk Nest Subdivision – Environmental Assessment
Tax Map 31, Parcels 666, 667**

Dear Mr. DiGiacomo:

Thank you for providing the Environmental Assessment (EA) for the above-referenced subdivision request. The applicant proposes to create a 26-lot subdivision, with 19 lots located within the Critical Area. Total site area is 18.73 acres, with 14.70 acres located within the Critical Area and designated Limited Development Area (LDA).

Based on the information provided, it appears that several of the comments from my October 6, 2008 subdivision letter have not been addressed. These comments are repeated below, along with additional comments on the proposed EA:

1. Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains a provision that states, "notwithstanding any provision in a local law or ordinance, or the lack of a provision in a local law or ordinance, all of the requirements of this subtitle shall apply to, and be applied by, a local jurisdiction as minimum standards for a program sufficient to meet the goals of the Critical Area Program." One such requirement is COMAR 27.01.02.04.C(4), which limits clearing to 20% of the existing forested area within the Critical Area portion of the property, unless the applicant receives permission by the County to clear up to 30%.
2. COMAR 27.01.02.04.C(3) states that all forests that are allowed to be cleared shall be replaced in the Critical Area on not less than an equal area basis. While we note the Planning Commission granted relief to this requirement in February 007, in order for this project to remain in conformance with the Critical Area Law and Criteria, the applicant must both reduce forest clearing on site and provide the appropriate mitigation. Per COMAR 27.01.02.04.C(4), mitigation plantings must

- be provided at a 1:1 ratio for clearing up to 20% of the existing forested area in the Critical Area, and if the applicant receives permission to clear up to 30%, the total cleared area must be mitigated at a 1.5:1 ratio. Currently, the applicant proposes to clear 7.27 acres of forest clearing within the Critical Area (49.4%). This amount of clearing exceeds what is permitted by COMAR, and therefore must be reduced to no more than 30%, with permission of the County. Please have the applicant make the necessary revisions on the plan.
3. COMAR 27.01.02.04.C(3) also requires the remaining forest cover to be maintained through the use of appropriate instruments, such as forest conservation easements that are recorded with the County. Please indicate how the remaining forest cover will be maintained.
 4. A note should be added to the EA and subdivision plat stating the forest clearing requirements and mitigation amounts within the Critical Area.
 5. It appears that the applicant is providing only a 50-foot Buffer around the intermittent stream. The applicant must provide a 110-foot Buffer around all intermittent streams within the Critical Area, as stated in Cecil County Zoning Ordinance §196.1. The Buffer shall be expanded to include contiguous sensitive areas such as steep slopes, hydric soils, or highly erodible soils, as stated in §196.3.b. We note that hydric soils include those soils with a K-value of 0.35 or greater that are located on slopes great than 5%. The current site plan only evaluates highly erodible soils on slopes 15% or greater.
 6. Cecil County Zoning Ordinance §200.3 allows roads, bridges, and utilities to cross a Habitat Protection Area only when no other feasible alternative exists. The developer must demonstrate that the road is located, designed, constructed, and maintained so as to provide maximum erosion protection and minimal negative impacts to wildlife, aquatic life and their habitats, hydrologic processes, and water quality. The EA should contain information addressing the proposed design meets this standard.
 7. The total subdivision is limited to 15% lot coverage as stated in §200.8 of the Cecil County Zoning Ordinance; however, an individual lot less than one acre may exceed the 15 % limit with no cap. Currently, the subdivision is proposing 14.1% lot coverage overall. In order to help the County ensure that the proposed subdivision remains in compliance and does not exceed 15% lot coverage, staff recommends that a lot coverage table be created that assigns a lot coverage limit to each lot. Lot Coverage includes the area of the lot that is occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material. Lot coverage does not include a fence or wall that is less than one foot in width that has not been constructed with a footer, a walkway in the Buffer or expanded Buffer (including a stairway), that provides direct access to a community or private pier, a wood mulch pathway, or a deck

with gaps to allow water to pass freely. The lot coverage table should be added to both the Environmental Assessment (EA) and the final plat.

8. Upon revising the 110-foot Buffer delineation around the intermittent stream, it appears that the building envelopes of Lot 1 and Lot 26, and the proposed stormwater management pond, are located within the 110-foot Buffer. New subdivisions created after the County's Critical Area Program adoption date must fully comply with all of the County's Critical Area regulations. Therefore, the applicant must reconfigure the lot lines and stormwater management pond to be located outside the 110-foot Buffer.
9. As stated in the Cecil County Zoning Ordinance §191, the Critical Area District was created to implement zoning regulations and measures that will protect and enhance water quality and habitat resources. In addition, the intent of the Critical Area District is to provide protection for the natural resources located in the Critical Area and to foster more sensitive development activity in shoreline areas that minimizes adverse impacts to water quality and natural habitats. To ensure this is accomplished, the County has stated that no development activity shall be permitted until the approving authority makes specific findings that the proposed development or activity is consistent with the goals and objectives of the Cecil County Critical Area Program.

Considering these regulations, Commission staff requests that the final subdivision plat provide notes referring to the subdivision's Environmental Assessment, which provides clear information on how the proposed development addresses the Critical Area's goals and objectives. We also recommend that the final plat provide references to any Buffer restrictions, lot coverage limits, Habitat Protection Areas, rare, threatened and endangered species, and forest coverage located onsite to demonstrate compliance with the County's Critical Area Program and regulations found in §191 of the Cecil County Zoning Code. We note that the Critical Area regulations within the Cecil County Zoning Code supersede any inconsistent law, section, plan or program of the County (§191).

10. It is unclear if the Department of Natural Resources Wildlife and Heritage Service (WHS) letter provided addresses both the proposed subdivision and the off-site sewer pump station. The applicant must receive a letter from the WHS evaluating the property for any rare, threatened, or endangered species (RTEs) location for both sites. A copy of the letter should be submitted to this office. If impacts to any RTEs are proposed, the applicant will need to revise the Environmental Assessment per the recent revisions to the Cecil County Zoning Ordinance.

Thank you for the opportunity to provide comments on this subdivision request. Please forward a copy of the revised Environmental Assessment and accompanying information once it is received. Final plat approval should not be permitted without approval of an accurate EA.

Elk Nest Subdivision EA
November 20, 2008
Page 4

If you have any questions, please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nick Kelly". The signature is fluid and cursive, with the first name "Nick" and last name "Kelly" clearly distinguishable.

Nick Kelly
Natural Resource Planner
cc: CE 447-04

Martin O'Malley
Governor

Anthony G. Brown
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STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
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www.dnr.state.md.us/criticalarea/

November 20, 2008

Ms. April Stehr
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard, Suite 430
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Talbot County

Dear Ms. Stehr:

I am writing to provide comments on the following project located in Talbot County:

200863775/09-WL-0277: Talbot County Department of Public Works

On Black Walnut Road in Tilghman Island, the County proposes to remove an existing deteriorated timber bulkhead and emplace 275 feet of stone revetment within a maximum of 17 feet channelward of the existing timber bulkhead. The purpose of the project is shore erosion control.

This project was submitted to this office by Talbot County in September 2008 and was found to be consistent with the County's Critical Area Program. Our office did request 1:1 mitigation for all Buffer disturbance related to the installation of the bulkhead. Additionally, we recommended that the area where lot coverage was removed be planted with native vegetation, that shoreline work be restricted between November 15 and March 1 since the project is located in a waterfowl concentration area, and that the County provide a copy of the MDE tidal wetlands permit once it is issued.

In reviewing the site plan, it appears a stockpile area is located within the 100-foot Buffer. New development activities, such as stockpile areas, may not be located within the 100-foot Buffer, as stated in COMAR 27.01.0.01C(2). In viewing the aerials of the site, however, we understand that the size and configuration of the parcel may restrict the applicant from locating the stockpile outside the Buffer. Therefore, we recommend that the applicant relocate the stockpile outside the Buffer to the maximum extent possible.

200864082/09-WL-0336: David Bates

In Easton, along Leeds Creek, the applicant has applied to emplace 1,110 feet of stone revetment within a maximum of nine feet channelward of the Mean High Water (MHW) line. In addition, the applicant proposes to fill, grade, and plant marsh vegetation along 266 feet of eroding shoreline with 200 cubic

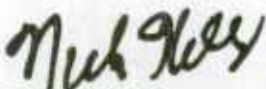
yards of sand and a low profile stone, sand containment sill emplaced within a maximum of 15 channelward of MHW. The purpose of the project is shore erosion control.

Based on the information provided, we have the following comments:

1. We note that the Talbot County Critical Area Program recommends nonstructural shore protection measures whenever practical. Therefore, we recommend nonstructural measures in lieu of the proposed 1,110 feet of replacement revetment. Nevertheless, if MDE determines that structural means are necessary, then this office will defer to your determination. Any disturbance to the 100-foot Buffer shall be mitigated at a 1:1 ratio.
2. In general, this office supports marsh creation as a means of shore protection in areas where long-term sustainability is ensured. However, to provide better comments on the proposed project, and to ensure that the project complies with Critical Area Law and regulations, we ask that MDE require the applicant to provide additional information for Commission staff review prior to approving the proposed project. Commission staff is willing to review this information in the form of a Buffer Management Plan. If submitted as a Buffer Management Plan, the following should be included:
 - a. Current and proposed location of Mean High Water (MHW).
 - b. Any proposed changes to the 100-foot Buffer as a result of the change to MHW and/or the edge of tidal wetlands. Movement of the Buffer line could be problematic, particularly if a shift of the line places existing structures within the Buffer.
 - c. The areas of proposed tidal marsh creation and nontidal marsh creation.
 - d. The proposed plantings for the marsh creation project. In particular, the applicant must define whether the *spartina patens* will be considered as high tidal marsh or as nontidal marsh.
3. Any excavation above MHW and within the 100-foot Buffer that may require clearing should be mitigated at a 1:1 ratio.
4. We recommend the use of biologs in place of the proposed armor stone for the marsh creation, if possible. However, if MDE determines that a stone sill is necessary for sustainability of the marsh, then this office will defer to your determination.
5. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply that between November 15 and March 1.
6. Please ensure that the applicant coordinates with the Talbot County Planning Office to obtain a local shore erosion control permit and to implement a Buffer Management Plan for the required mitigation.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resources Planner

cc: Elisa DeFlaux, Talbot County Planning and Zoning

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Governor

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Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 1, 2008

Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: Ordinance 395 – Consolidation or Reconfiguration of Existing Lots of Record in the Critical Area

Dear Ms. Renshaw:

We have received your request for the processing of the above referenced text amendment to the Town of St. Michaels Critical Area Program. The text change proposes procedures for lot consolidation and reconfiguration in order to bring certain lands into conformance with the Critical Area Law and the Town's Critical Area Program to the extent possible, as required by the Critical Area Criteria and Chapter 119 of the 2008 Laws of Maryland. This letter serves to notify the Town that Commission staff has accepted the materials forwarded by the Town as a complete submittal. The Chair will make an amendment or refinement determination within thirty days of the date of this letter, and Commission staff will notify you of her determination and the procedures for review by the Critical Area Commission.

Thank you for providing us with the opportunity to review your text amendment request. If you have any questions, feel free to call me at (410) 260-3483.

Sincerely,

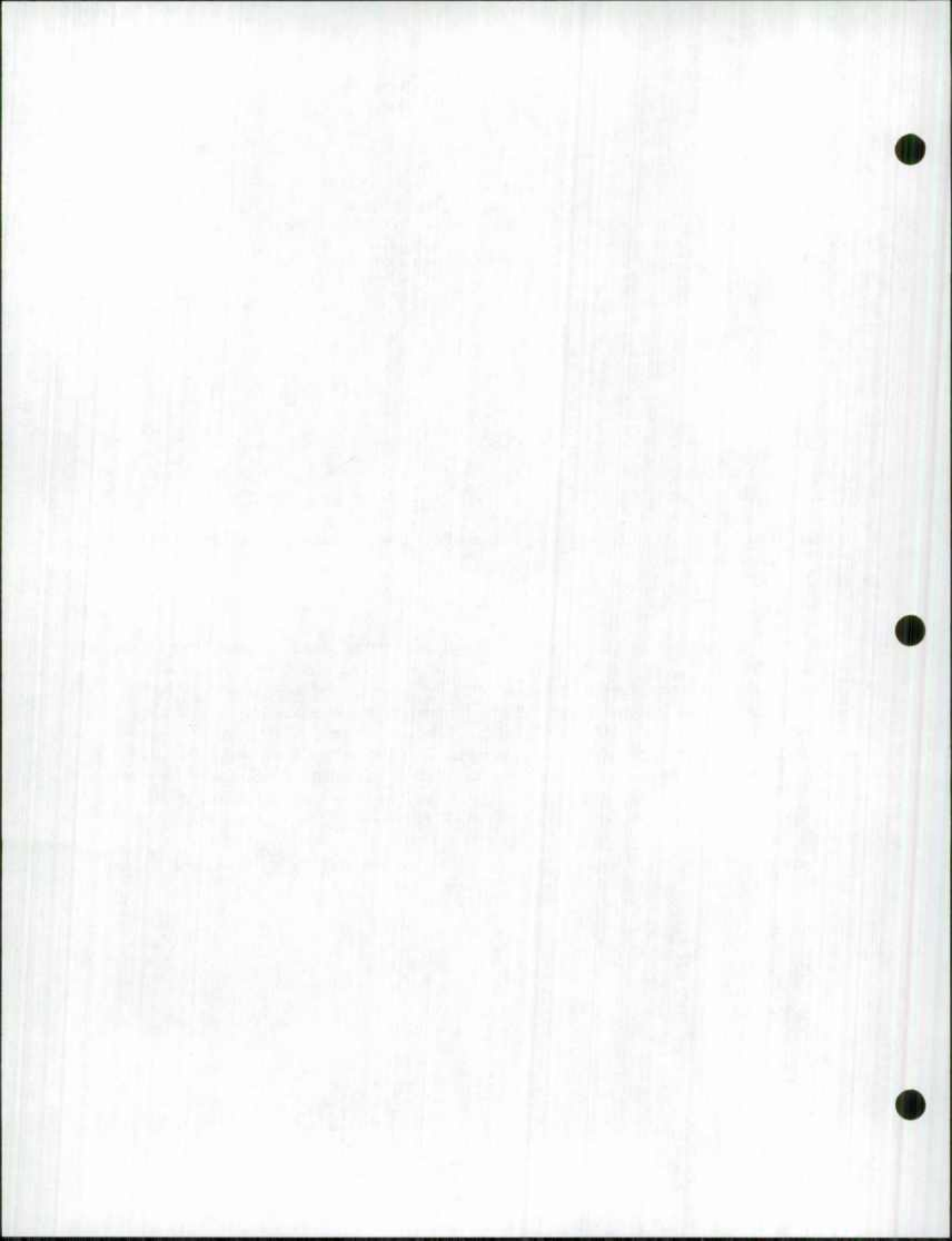
A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner

cc: SM 374-08
file

TTY for the Deaf

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December 1, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

Re: **Kleppinger Subdivision**
S1038 TM 40, P 180

Dear Ms. Verdery:

Thank you for providing information on the above referenced project. The applicant is proposing to create a single-lot subdivision. The parcel is 2.0 acres in size, with 1.96 acres located within the Critical Area and designated Limited Development Area (LDA). Total lot coverage on Lot 1 is 3,982.6 square feet (11.9%), while total lot coverage on Revised Tax Parcel 180 is 4,680.1 square feet (9.0%). Total existing forest coverage onsite is 0.02 acres (1.0%).

Based on the information provided, we have the following comments;

1. The applicant must provide 0.12 acres of forest coverage on Lot 1 to meet the 15% afforestation requirement in the Critical Area. All forest coverage must be located within the Critical Area portion of the lot. It appears that the applicant proposes to place a portion of the forest coverage outside the Critical Area.
2. Please change all references of "impervious surface" to "lot coverage," as applicants must now meet 15% lot coverage restrictions, as found in Ch. 119, 2008 Laws of Maryland at 765. Lot Coverage includes the area of the lot that is occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material. Lot coverage does not include a fence or wall that is less than one foot in width that has not been constructed with a footer, a walkway in the Buffer or expanded Buffer (including a stairway), that provides direct access to a community or private pier, a wood mulch pathway, or a deck with gaps to allow water to pass freely.

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3. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. Please forward a copy of the letter to this office.

Thank you for the opportunity to provide comments on this subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 644-08

Martin O'Malley
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December 1, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Haddaway Subdivision
S1037 TM 31, P 212**

Dear Ms. Verdery:

Thank you for providing information on the above referenced project. The applicant is proposing to create a two-lot subdivision. The parcel is 5.50 acres in size, with 4.295 acres located within the Critical Area and designated Resource Conservation Area (RCA) and Limited Development Area (LDA). Total lot coverage on Lot 1 is 5,569 square feet (4.5%), while there is no lot coverage currently on Lot 2. Total existing forest coverage onsite is 3.796 acres (88.3%).

Based on the information provided, we have the following comments:

1. The proposed Sewage Disposal Area is located partially within the Critical Area and partially outside the Critical Area. Septic systems may not be located in the Critical Area to serve development outside of the LDA.
2. The Department of Natural Resources Wildlife and Heritage Service has determined that Forest Interior Dwelling Birds (FIDS) habitat exists onsite. Development restrictions will apply to any future construction within this habitat, and a FIDS Mitigation Analysis sheet must be submitted to this office for review and comment. Please refer to the Critical Area Commission's "A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area" for more details on development standards and information about mitigation for projects where impacts to FIDS habitat cannot be totally avoided.
3. Mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing and meets the site design guidelines within the Critical Area FIDS Guidance Manual.

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4. If clearing in FIDS habitat is unavoidable, a Habitat Protection Plan must be submitted to this office for review and comment, as required in §190-93 E(8)(d) of the Talbot County code.
5. The Habitat Protection Plan, environmental site constraints, and all other environmental issues mentioned in this letter must be resolved prior to preliminary plat approval.

Thank you for the opportunity to provide comments on this subdivision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 645-08

Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
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Executive Director

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December 2, 2008

Ms. Elisa DeFlaux
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Trappe Public Landing Fence Enclosure
Consistency Report (TM 54, P 27)**

Dear Ms. DeFlaux:

Thank you for providing supplemental information on the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The County proposes to construct a fence enclosure to house a portable toilet and oil recycle tank. The property is 0.23 acres in size and is designated Resource Conservation Area (RCA). After reviewing supplied information, this office agrees that the project is generally consistent with the Talbot County Critical Area Program for the reasons outlined below:

1. Total area disturbed for this project is 128 square feet.
2. The project will not impact forest, woodland, or trees; no clearing is proposed.
3. Stormwater management and sediment and erosion control plans are not applicable to this project, as total disturbance onsite is less than 5,000 square feet.
4. There will be no impacts to the 100-foot Buffer.
5. There are no impacts to any Habitat Protection Areas.
6. No nontidal wetland impacts will occur.
7. No tidal wetlands impacts will occur.

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Thank you again for providing information on this consistency report application. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nick Kelly".

Nick Kelly

Natural Resource Planner

cc: TC 628-08

Martin O'Malley
Governor

Anthony G. Brown
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December 2, 2008

Ms. Chris Corkell
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

Re: **Nourse Variance
1512**

Dear Ms. Corkell:

Thank you for providing information on the above referenced variance request. The applicant is proposing a variance to the 100-foot stream Buffer to widen an existing driveway that crosses a tributary stream bed, tributary stream Buffer, and existing culvert. The property is 113.72 acres in size and is designated Resource Conservation Area (RCA).

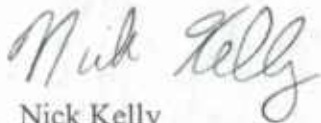
COMAR 27.01.02.04C(1)(b) and 27.01.02.05C(7) states that, for Habitat Protection Areas (HPAs) located in the RCA, "all roads, bridges, and utilities that must cross a habitat protection area shall be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. Roads, bridges, and utilities may not be located in any habitat protection area unless no feasible alternative exists." In reviewing the site plan, however, it appears that the applicant may be able to avoid Buffer impacts completely by locating the roadway in the agricultural field east of the stream and outside the Critical Area. Therefore, we question whether no other feasible alternative exists onsite. Prior to making a decision, the Board should make findings on this issue.

Finally, we note that the Board of Appeals must find that the applicant meets all five variance standards in order for a variance to be granted. We recommend that the Board give particular consideration in this case to whether the application meets the standard that water quality will not be adversely affected, that fish, wildlife or plant habitat will be not impacted, and that the variance will be in harmony with the spirit and intent of the Critical Area Law, particularly considering that there appears to be an alternative location for the roadway onsite that will not impact the stream or stream Buffer. While we acknowledge that the proposed roadway is located generally in the same area as an existing driveway, the proposed roadway represents a significant

intensification of use in the RCA and is intended to service newly created lots in the Critical Area. In this regard, the Board should require every method of avoiding and minimizing impacts in the Critical Area to be fully explored by the applicant.

Thank you for again for providing information on this administrative variance request. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: TC 652-08

Martin O'Malley
Governor

Anthony G. Brown
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December 2, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Bay Vista Line Revision
L1092 TM 44A, P355**

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is proposing a revision of allowable lot coverage on three lots within an existing subdivision. Lot 23 is 10,500 square feet in size, Lot 26 is 17,684 square feet in size, and Lot 27 is 17,510 square feet in size. If approved, the revision will increase lot coverage on Lot 23 from 1,800 square feet to 2,500 square feet (23.8%), will decrease lot coverage on Lot 26 from 4,586 square feet to 2,843 square feet (16.07%), and will increase lot coverage on Lot 27 from 1,800 square feet to 2,843 square feet (16.2%). There will be no net change in lot coverage, and no lot exceeds the minimum amount of lot coverage permitted per lot.

Based on the information provided, we have the following comments on this line revision:

1. Please have the applicant provide further information clarifying why this revision in lot coverage is proposed.
2. As of July 1, 2008, a subdivision is limited to 15% total lot coverage, as stated in Section 8, Ch. 119, 2008 Laws of Maryland at 765. Lot Coverage includes the area of the lot that is occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material. Lot coverage does not include a fence or wall that is less than one foot in width that has not been constructed with a footer, a walkway in the Buffer or expanded Buffer (including a stairway), that provides direct access to a community or private pier, a wood mulch pathway, or a deck with gaps to allow water to pass freely.

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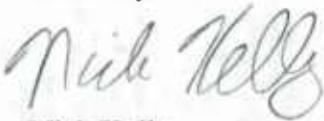


It is our understanding that some existing lots within the larger subdivision have already received building permits and have been developed under the impervious surface limitations found in §190-93.E(6)(c)[1][a] of the Talbot County Code. However, any undeveloped lots, including Lots 23, 26, and 27, that not have filed for a building or grading permit by October 1, 2008, are required to adhere to lot coverage restrictions. In order to account for all existing partially pervious materials onsite, and to determine an accurate amount of lot coverage remaining for development on the undeveloped lots, Commission staff requests that the County provide copies of all building permits associated with any developed lots within this subdivision. The permitted lot coverage allowed on the remaining lots may need to be revised based on the review of these permits.

3. Please have the applicant change all references of "impervious surface" to "lot coverage."

Thank you for the opportunity to provide comments on this lot line revision request. Please have the applicant provide the information requested above. Please call me with any questions at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: TC 595-08

Martin O'Malley
Governor

Anthony G. Brown
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Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 2, 2008

Ms. Amanda Paoletti
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**Re: Revised Record Plat – Bracebridge Hall
Preliminary Plat and Growth Allocation Request
Habitat Protection Plan**

Dear Ms. Paoletti:

Thank you for forwarding the Habitat Protection Plan (HPP) for the above referenced project for review and comment. The applicant is seeking to revise a previously approved subdivision in the Resource Conservation Area (RCA) to include a golf course and potential growth allocation. The proposed design seeks to include a golf course throughout the RCA that is consistent with the Critical Area Commission's "Golf Courses in the RCA" policy document. Further, the applicant is seeking approximately 40 acres of growth allocation in order to change the land designation from RCA to Limited Development Area (LDA) to accommodate the clubhouse, associated facilities, dock area, and twelve lots.

This office provided preliminary comments on the proposed growth allocation May 9, 2008, July 1, 2008, and October 17, 2008, and November 12, 2008. Further, Kate Schmidt prepared a memo to the Program Subcommittee of the Critical Area Commission in July 2008 to seek guidance regarding the proposal and provide feedback to Cecil County.

Based on the current proposal provided, and based on our site visit with the applicant and the Maryland Department of the Environment on November 24, 2008, we have the following comments to provide in regard to the Habitat Protection Plan and site plan:

1. The Habitat Protection Plan (HPP) must address all designated Habitat Protection Areas (HPAs); including Forest Interior Dwelling Species (FIDS), McGill Creek and the Bald Eagle's nest located onsite. The plan should describe how the project provides for the protection and conservation of any identified habitat or species as set forth in COMAR

27.01.09 on the project site. Further, the plan should include all protective measures appropriate to provide for long-term conservation based on consultation with the Department of Natural Resources and other appropriate federal and State agencies.

2. Given the size of the development proposal, we recommend the applicant prepare a separate Buffer Management Plan from the HPP. The Buffer Management Plan should include the following details; area and amount of existing vegetation within the Buffer, any vegetation in the Buffer that is proposed to be removed, square feet of disturbance in the Buffer associated with a development activity, proposed planting plan to establish the Buffer as required, any written descriptions, specifications, and protective agreements necessary to ensure implementation of the Buffer Management Plan; and bonding or other financial sureties to ensure long-term protection and maintenance of vegetation in the Buffer.
3. It is our understanding that the applicant wishes to consider the option of providing nontidal ponds and other amenities within the 100-foot Buffer and 300-foot setback to provide habitat for endangered species within the area. In addition, the applicant is proposing vista pruning to maintain selective views of the water resources onsite. We note that the 100-foot and Expanded Buffer must be fully forested in 3-tier vegetation, as found in COMAR 27.01.09.01 and §196.3 of the Cecil County Code. However, the Commission may consider flexibility in regard to requiring a fully forested 300-foot setback. The applicant must provide detail in the Habitat Protection Plan and Buffer Management Plan that explains how any proposal, other than providing a fully forested 300-foot setback, meets the functions of providing enhanced water quality and habitat protection.
4. As a proposed growth allocation, Commission staff must verify that the expansion of the 110-foot Buffer for steep slopes and highly erodible soils is correct per the requirements of Section 196.3.c of the Cecil County Zoning Ordinance and the Critical Area law and Criteria. This may change the expanded Buffer as it was shown on the subdivision plat approved in 2006. I am unable to verify the Buffer expansion based on the level of detail provided to date.

Please submit a separate exhibit clearly identifying tidal waters, landward edge of tidal wetlands, boundaries of nontidal wetlands and all intermittent or perennial streams on the property along with the expanded Buffer at a 1"=50' scale or 1"=100' scale and two foot contours with shading for slopes of 15% or greater. The exhibit should also include a series of transects and an accompanying table that identify the percent of slope and the calculation used to determine the extent of the expansion. The methodology used for expansion should be consistent throughout the property. I am available for any further guidance or assistance on this issue as necessary.

5. In reviewing the site plan, it appears that the applicant is proposing to grade steep slopes within the Critical Area, such as near the tees and within the fairway of the 15th hole. Steep slopes are protected from disturbance within the LDA and RCA of the Critical Area unless the project is the only effective way to maintain or improve the stability of

November 25, 2008

Page 3

the slope, as noted in COMAR 27.01.02.04.A(6) and 27.01.02.05A(7). Please provide more information on the proposed grading in these areas as well as justification for the need to grade.

I would like to make the County aware of an issue regarding the preliminary plat which I noticed during my review of the Habitat Protection plan. The preliminary plat includes a lot area table that provides the area of each lot as well as proposed lot coverage within the Critical Area. However, this table does not break out the area of RCA and LDA. The lot coverage allowed within the LDA and within the RCA is each based on the acreage within that area. For example, the proposed area of LDA is limited to an overall 15% lot coverage based on 40 acres, which would be 6 acres. The Lot Area table indicates Lot 106 is limited to 25.53 acres but has not assigned lot coverage based on the RCA area and the LDA area. The applicant must revise the lot coverage table on the preliminary plat to break down the amount of each lot located within the RCA and LDA as well as the maximum amount of lot coverage associated with each lot. If the revised table indicates that the LDA lot coverage limit of 15% can not be met, the County may not approve the revised plat.

Please forward a revised Habitat Protection Plan, Buffer Management Plan, and Environmental Assessment when it is available for further review by this office. Thank you for the opportunity to provide comments. Please include these comments as an addendum to our previously provided letters. If you have questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resources Planner

cc: CE 202-06
Mr. Tony DiGiacomo, Cecil County
Mr. James Keefer, MRA

Martin O'Malley
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December 2, 2008

Amanda M. Paoletti
Cecil County Government
Office of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

**RE: Vertino Brothers, LLC Environmental Assessment
TM 400, P 63 122**

Dear Ms. Paoletti:

Thank you for providing information on the above-referenced Environmental Assessment. The applicant is proposing to develop residential dwellings on two parcels. Parcel 63 is 0.0786 acres in size, while Parcel 122 is 0.0943 acres in size; both parcels are designated Limited Development Area (LDA). Total forest coverage on site is 0.012 acres. The applicant proposes to plant an additional 0.014 acres of forest coverage to meet the 15% afforestation requirement.

Based on the information provided, we have the following comments:

1. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. Impacts will need to be addressed based on the recommendation from the Maryland Department of Natural Resources and incorporated into the EA and site plan.
2. Mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing. A note should be added to the EA and site plan referencing this requirement.
3. The applicant states that a forested nontidal wetland is located on Parcel 122. It appears that a portion of the proposed afforestation area will be located within this wetland. Please ensure that the applicant cooperates with the Maryland Department of the

Environment (MDE) to ensure that the proposed plantings are native and will survive within this habitat area.

4. We recommend that the applicant substitute the proposed Green Ash tree with another native tree.
5. Please have the applicant delineate the entire extent of the nontidal wetland, to ensure that it is not contiguous to the 100-foot Buffer of Big Elk Creek. If the nontidal wetland is located contiguous to the 100-foot Buffer, then Buffer expansion is required.
6. Please provide the amount of lot coverage proposed on each parcel. Applicants must now meet lot coverage restrictions, as found in Ch. 119, 2008 Laws of Maryland at 765. Parcel 63 is limited to 5,445 square feet of lot coverage, while Parcel 122 is limited to 15% lot coverage. Lot Coverage includes the area of the lot that is occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material. Lot coverage does not include a fence or wall that is less than one foot in width that has not been constructed with a footer, a walkway in the Buffer or expanded Buffer (including a stairway), that provides direct access to a community or private pier, a wood mulch pathway, or a deck with gaps to allow water to pass freely. Total lot coverage proposed for each parcel should be noted on the EA and site plan.
7. Please have the applicant submit a revised copy of the EA and Report to this office for review and comment.

Thank you for the opportunity to provide comments on this request. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner

cc: CE 660-08
MS. Betsy Vennell, Town of North East

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

December 3, 2008

Eric Shertz
Cecil County Department of Planning and Zoning
County Administration Building
200 Chesapeake Boulevard, Suite 2300
Elkton, MD 21921

Re: **Smith Creek Subdivision**
TM 58, P 2

Dear Mr. Shertz:

Thank you for forwarding the above-referenced project. The applicant proposes to create a subdivision, three lots of which will be located in the Resource Conservation Area (RCA). Lot 5 is proposed to be 53.984 acres; Lot 6 is proposed to be 38.006 acres; and Lot 13 is proposed to be 41.801 acres.

As stated in the Cecil County Zoning Ordinance, Article XI, §191, the Critical Area District was created to implement zoning regulations and measures that will protect and enhance water quality and habitat resources. In addition, the intent of the Critical Area District is to provide protection for the natural resources located in the Critical Area and to foster more sensitive development activity in shoreline areas that minimizes adverse impacts to water quality and natural habitats. To ensure this is accomplished, the County has stated that no development activity shall be permitted until the approving authority makes specific findings that the proposed development or activity is consistent with the goals and objectives of the Cecil County Critical Area Program.

Considering these regulations, Commission staff has concerns on whether the plat, as shown, is consistent with the spirit and intent of the Critical Area Program. In particular, the plat does not refer to the site's Environmental Assessment (EA), which provides clear information on how the proposed development addresses the Critical Area's goals and objectives. The EA is of considerable importance based upon the location of FIDS habitat and sensitive species within the Critical Area. We request that a revised copy of the EA be submitted to this office for review and comment prior to final plat approval. In addition, we recommend that the final plat should

provide references to restrictions for FIDS habitat and sensitive species to demonstrate compliance with the County's Critical Area Program and regulations found in §191 of the Cecil County Code. We note that the Critical Area regulations within the Cecil County Zoning Code supersede any inconsistent law, section, plan or program of the County (§191).

Additionally, it appears that several of the comments provided by Julie Roberts on June 2, 2008 have not been addressed. These comments are repeated below, along with additional comments on the proposed subdivision plan:

1. Please clarify the following information on the subdivision plat and EA:
 - a. The amount of Critical Area acreage associated with each lot on the site plan.
 - b. The amount of State tidal wetlands and the amount of private tidal wetlands.
Please note, State tidal wetlands cannot be included within the boundaries of any privately owned lot or parcel per Annotated Code of Maryland – State Finance & Procurement Article §10-301, which establishes inland waters of the State & land under those waters as State real property. Further, areas of State tidal wetlands cannot be used for density calculations or to meet the performance standards for development within the Critical Area.
2. It is our understanding that the applicant submitted an application for subdivision prior to July 1, 2008. Please note that Ch. 119, 2008 Laws of Maryland at 765 contains provisions in regards to a new 200-foot Buffer which may be applicable to this subdivision. Under these provisions, a subdivision located in the RCA must provide a new 200-foot Buffer *unless* an application for subdivision was submitted before July 1, 2008 *and* is legally recorded by July 1, 2010. Should the applicant fail to have the subdivision plat recorded by the July 1, 2010 deadline, then a 200-foot Buffer will apply to this project. Please ensure that the applicant is aware of this requirement, as stated in Chapter 119 of the 2008 Laws of Maryland.
3. As of July 1, 2008, a subdivision is limited to 15% total lot coverage, as stated in Section 8, Ch. 119, 2008 Laws of Maryland at 765. Lot Coverage includes the area of the lot that is occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material. Lot coverage does not include a fence or wall that is less than one foot in width that has not been constructed with a footer, a walkway in the Buffer or expanded Buffer (including a stairway), that provides direct access to a community or private pier, a wood mulch pathway, or a deck with gaps to allow water to pass freely.
4. GIS data reveals that the property is located in a potential area where a species of concern is located. The applicant must receive a letter from the Department of Natural Resources Wildlife and Heritage Division (WHS) evaluating the property for any rare, threatened, or endangered species location onsite. A site-specific survey of the RCA should be done to determine whether these species occur near the proposed development. If species are found, the applicant will be required to prepare a revised EA that includes habitat

protection provisions per §197.12b(1) and §200.2. A copy of the revised EA should be submitted to this office for review and comment.

5. GIS maps reveal that potential FIDS Habitat is located onsite. As stated in the Cecil County Zoning Ordinance §197.12.b(3), the applicant is required to utilize the guidance found in the Commission's *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake* if the Department of Natural Resources Wildlife and Heritage Service notes the potential of FIDS in their review. Besides providing measures to protect FIDS habitat, this guidance also includes mitigation measures for any disturbance to FIDS habitat that is unavoidable. The Environmental Assessment Report should contain a copy of the FIDS Conservation Worksheet (Appendix D of *A Guide...*), completed by the applicant, and include required mitigation.
6. A note must be added to the EA and the subdivision plat regarding the presence of FIDS habitat, the amount of FIDS habitat impacted, the amount of FIDS mitigation required, and measures to protect this area. If mitigation is required, we recommend the County require a bond or other financial surety to ensure the necessary mitigation is provided prior to transfer of the lots.
7. The property is located adjacent to a historic waterfowl concentration area. Therefore, any construction of water-dependent shoreline facilities will be subject to time-of-year restrictions. We recommend that the applicant contact WHS for more guidance on this issue. A note should be added to the final plat and EA referencing this restriction.
8. The final plat and EA must note the amount of forest coverage located onsite. The applicant must provide at least 15% percent afforestation within the Critical Area. In addition, mitigation for any future forest clearing onsite shall be provided at a 1:1 ratio, provided it is less than 20% clearing and meets the site design guidelines within the Critical Area FIDS Guidance Manual. A note should also be added to the EA and final plat referencing this requirement.
9. Applicants must extend the Buffer for steep slopes according to the Cecil County Zoning Ordinance §196.2.b. and COMAR 27.01.09.01C(7), which states that "...In the case of contiguous slopes 15 percent or greater, the Buffer shall be expanded four feet for every one percent of slope, or the top of the slope, whichever is greater in extent." In addition, the 110-foot Buffer must be expanded for any hydric or highly erodible soils located contiguous to the Buffer. In order to verify its accuracy, please have the applicant provide samples of the methodology used on this site to calculate the expanded Buffer.
10. Highly erodible soils are defined as soils with a slope greater than 15% or those soils with a K-value greater than 0.35 and with slopes greater than 5%. The plan provided only delineated soils with slopes greater than 25% or slopes greater than 15% with a K-value greater than 0.35. Please have the applicant revise Note #7 to accurately reflect this definition.

11. Per COMAR 27.01.09.01 and §196.3 of the Cecil County Code, the 110-foot and Expanded Buffer will be fully forested in three-tier vegetation. Please include a note on the final plat and Environmental Assessment referencing this requirement and describing how establishment will be met.
12. No disturbance is permitted within the 110-foot and expanded Buffer per §196 of the Cecil County zoning Ordinance. Please include a note on the final plat and EA referencing this requirement.
13. Please have the applicant more clearly delineate the tidal wetlands on the site plan to ensure that the 110-foot Buffer is properly delineated. The 110-foot Buffer must be delineated in the field versus using existing tidal wetland maps.
14. The applicant has also provided a Forest Retention Area plan, in the amount of 82.56 acres, based upon the Environmental Assessment for the proposed development. The plat indicates that disturbance of any kind is strictly prohibited.
15. Please have the applicant submit a revised copy of the revised preliminary plat, along with a copy of the EA and Report, to this office for review and comment.

Thank you for the opportunity to provide comments on this subdivision request. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: CE 304-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 4, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

Re: **Appeal #1513 Hollingsworth**

Dear Ms. Verdery:

I have received the above referenced allegation of error for review and comment. The applicant has appealed a decision by the Talbot County Zoning Enforcement Officer, claiming he erred by issuing an abatement order on July 23, 2008, stating that a wetland crossing on the property was created to aid agricultural operations and crop cultivation on the property.

The documents in the Commission's files do not provide a sufficient basis upon which we can verify the facts of this case. However, it is my understanding, from the information provided, that the Maryland Department of the Environment (MDE) has visited the site with the zoning enforcement officer to assess the situation. MDE has ordered that all fill material be removed from the wetlands, that the site should be restored to previous grades, that pictures depicting the pre-existing condition of the area should be submitted to MDE, and that the affected area should be replanted. According to the abatement letter supplied with this application, the restoration had not been completed by the required date of September 1, 2008.

Based on the application materials received, the violation appears to consist primarily of placement of fill material within tidal wetlands. In this regard, this office defers to the determination of the County Zoning Enforcement Officer and MDE that a violation exists, and in determining the proper avenue for abatement of the violation. However, the photographs of the site provided by the County raise concern that, while not specified in the application, the roadway may cross areas of the 100-foot Buffer. In this case, the roadway must also be treated as a violation of the 100-foot Buffer requirements and the County must proceed with citing the applicant for an additional Critical Area violation.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: TC 661-08

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 4, 2008

Theresa Dent
Environmental Planning Section
Countywide Planning Division
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: **Mullen Site Plan/Conservation Plan**
CP-08005

Dear Ms. Dent:

Thank you for providing information on the above-referenced conservation plan. The applicant is proposing to construct additions to an existing two-story house. The property is 10,000 square feet in size and is designated Limited Development Area (LDA). Total existing lot coverage on site is 3,000 square feet (30.00%); the applicant proposes to increase lot coverage by 477 square feet to 3,477 square feet (34.77%). Total existing forest coverage on site is 840 square feet (8.4%).

Based on the information provided, we have the following comments:

1. The applicant states that 17.3% impervious surface will be proposed onsite, while total lot coverage proposed is 34.7%. As of July 1, 2008, applicants must now meet lot coverage restrictions, as found in Ch. 119, 2008 Laws of Maryland at 765. Lot Coverage includes the area of the lot that is occupied by a structure, accessory structure, parking area, *driveway*, walkway, or roadway; or covered with *gravel*, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material. Grandfathered lots between 8,000 and 21,780 square feet are limited to 31.25% lot coverage. Therefore, the applicant may not increase lot coverage beyond that limit without a variance, which this office would not support.
2. Please revise the conservation plan to include to include a breakdown of lot coverage by structure onsite (dwelling unit, shed, walkway, driveway, etc.). We note that gravel driveways are considered to be a component as lot coverage.

TTY for the Deaf

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3. Please have the applicant provide a revised site plan that more clearly delineates the lot lines for Lots 19, 20, 21, and 22.

Thank you for the opportunity to provide comments. Please provide this office a revised Conservation Plan and variance request (if necessary) that addresses the above comments. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: PG 664-08

Cecilia Lammers, M-NCPPC – Planning Department

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 4, 2008

Ms. Jeanne Minner
Elkton Planning Department
Elkton Municipal Building
P.O. Box 157
Elkton, Maryland 21922-0157

**Re: MAG Properties Elkton, LLC
Building Permit**

Dear Ms. Minner:

Thank you for providing information on the above referenced building permit. The applicant is proposing to create a one-story building, sidewalks, and drive aisles. The parcel is 1.078 acres in size and is designated Intensely Developed Area (IDA). Total existing lot coverage onsite is 0.15 acres (13.9%); the applicant proposes to increase lot coverage by 0.73 acres to 0.88 acres (81.6%).

Based on the information provided, we have the following comments:

1. The 10% phosphorus removal calculations are incorrect. The applicant uses a C-value (flow weighted mean concentration of the pollutant in urban runoff) of 0.26 mg/l. However, the correct C-value for a new development activity is 0.30 mg/l. In addition, site imperviousness is 81.6%, not 79.9%, as used in the worksheet. Consequently, the total load required for removal is 1.586 lbs/year, not 1.274 lbs/year, and the Best Management Practice (BMPs) proposed does not fully meet the requirement. Please ask the applicant to revise the 10% worksheets. Additional BMPs will be required to meet the removal requirement. A copy of this office's 10% calculations for the site are provided. Please feel free to contact me with any questions regarding these worksheets.
2. The applicant does not provide information on what types of Best Management Practices will be utilized onsite to meet 10% requirements. In order to determine if the proposed BMPs will provide adequate pollutant removal, please have the applicant provide the type of BMPs proposed, a schematic of the proposed BMPs, as well as a drainage area map defining what areas of the site will drain into each BMP. We note that Best

Management Practices may not be located within the Resource Conservation Area (RCA) portion of this site to treat development located within the IDA.

3. The applicant has provided 10% worksheets for a prior Royal Farm Store, dated October 8, 1997, that utilized an extended detention pond and sand filter to meet pollutant removal requirements. It is unclear how these worksheets relate to the proposed project. Please have the applicant provide more information to clarify the inclusion of these worksheets.
4. Please revise all references of "impervious area" on the site plan to "lot coverage."
5. The site plan should indicate the Critical Area Overlay and designation.

Thank you for again for submitting this information. If you have any questions or concerns please contact me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: EL 672-08 686-08

Enclosure

Brian Walker, Bay State Land Services

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 5, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Harrison Line Revision
L1101 TM 44A, P299**

Dear Ms. Verdery:

Thank you for providing information on the above referenced lot line revision. The applicant is proposing to abandon a lot line between two parcels (Parcel 298, Parcel 299). Based upon review of the County's Critical Area maps and GIS layers, it appears that the parcel is located outside the Critical Area. Therefore, we have no comments on this proposed revision. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly".

Nick Kelly
Natural Resource Planner
cc: file

TTY for the Deaf

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Martin O'Malley
Governor

Anthony G. Brown
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Executive Director

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December 5, 2008

John Maholtz
Washington Suburban Sanitary Commission
14501 Sweitzer Lane
Laurel, MD 20707-5902

Re: Broad Creek Pumping Station Emergency Generators

Dear Mr. Maholtz:

At its meeting on December 3, 2008, the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays unanimously approved the Broad Creek Pumping Station Emergency Generators project with the following condition:

- Prior to the start of construction, the applicant will submit a planting plan that addresses the required 10% Phosphorus reduction plantings to Commission staff for review and approval.

This condition will be satisfied once a planting plan is submitted to this office and is approved by Commission staff. Please note that should any changes to the site plan be proposed in the future, additional review and approval by the Commission will be required.

Thank you again for your help with this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resources Planner

cc: Paul Billingsley, Unit Coordinator – Environmental Programs
Mike McQuade, Whitman, Requardt & Associates
37-08

enclosure

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 8, 2008

Ms. Mary Kay Verdery
Talbot County Office of Planning and Zoning
28712 Glebe Road, Suite 2
Easton, Maryland 21601

**Re: Driggs Variance
A138**

Dear Ms. Verdery:

Thank you for providing information on the above-referenced variance request. The applicant is proposing to construct a covered porch entry within the 100-foot Buffer that will be partially located over the footprint of an existing sidewalk. The parcel is 3.90 acres in size and is designated Resource Conservation Area (RCA). The property is currently developed with a one-story dwelling unit, one-story garage, brick patio, sidewalk, driveway, concrete lid, and brick fireplace. Currently, total lot coverage is 13,006 square feet (7.65%). The applicant proposes to remove 45 square feet of sidewalk and install 128 square feet of new lot coverage, with 117 square feet of new lot coverage located within the Buffer. If the variance is granted, total lot coverage will increase by 83 square feet to 13,089 square feet (7.70%). The proposed addition is no closer to Mean High Water (89.1 feet) than the existing dwelling (49.0 feet).

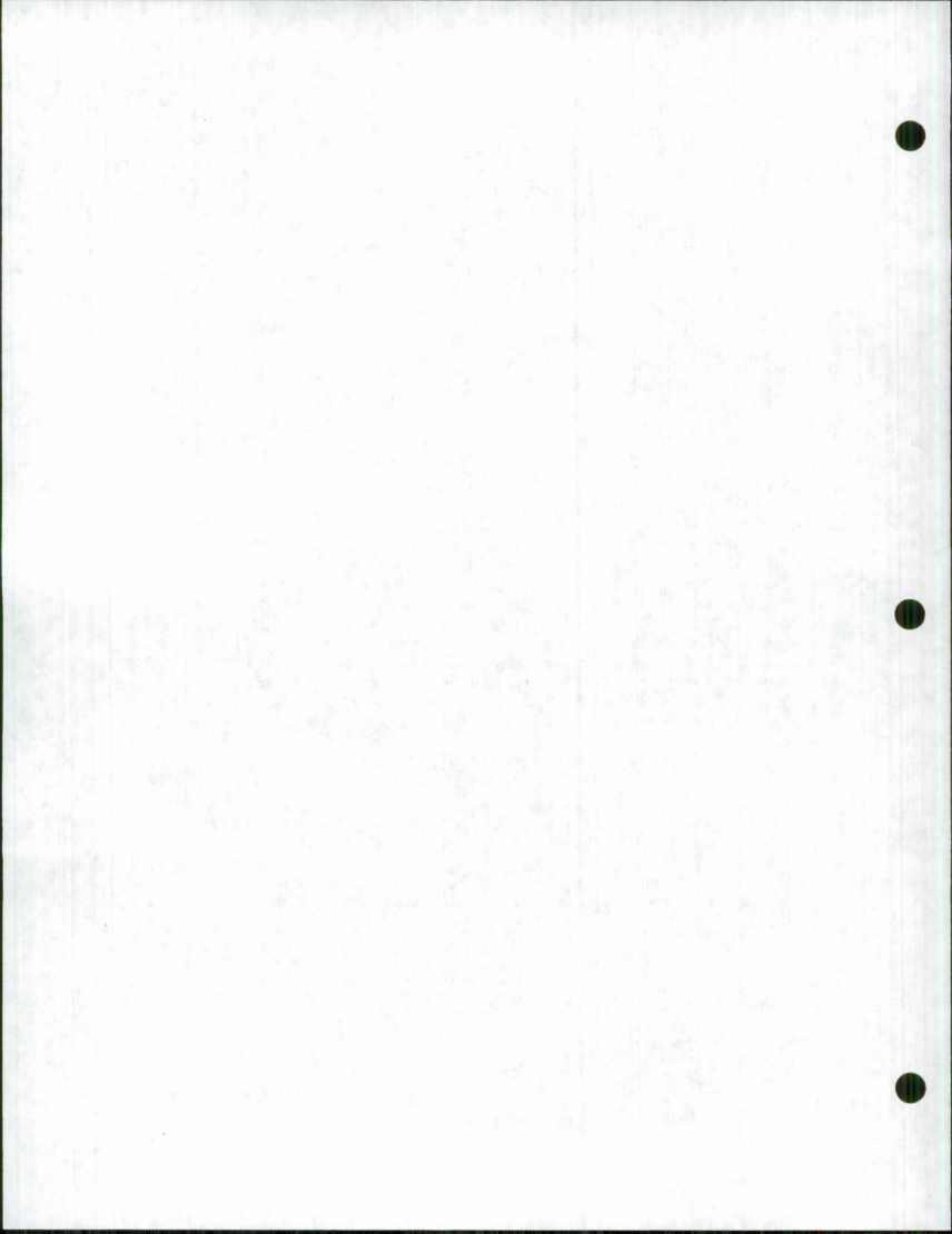
Provided that the lot is properly grandfathered, we do not oppose this variance request. However, we do have the following comment:

- Mitigation for any disturbance to the 100-foot Buffer shall be provided at a 2:1 ratio.

Thank you for again for providing information on this administrative variance request. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please feel free to contact me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: TC 643-08



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 9, 2008

Mr. Robert Rushlow
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard, Suite 430
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Talbot County

Dear Mr. Rushlow:

I am writing to provide comments on the following project located in Talbot County:

200760834/07-WL-1112: Lynn Brookhouser

On Knapps Narrows, in Tilghman, MD, the applicant proposes to reduce the width of an existing pier by four feet, construct a three foot wide by fourteen foot long catwalk with boatlift, and remove three existing pilings. Additionally, the applicant proposes to mechanically/hydraulically dredge a 75-foot by 52-foot wide area to the 6.5 foot depth at mean low water, and transport 833 cubic yards of dredge material to the Midshore Landfill. The purpose of the project is to provide adequate depth for the mooring of personal watercraft.

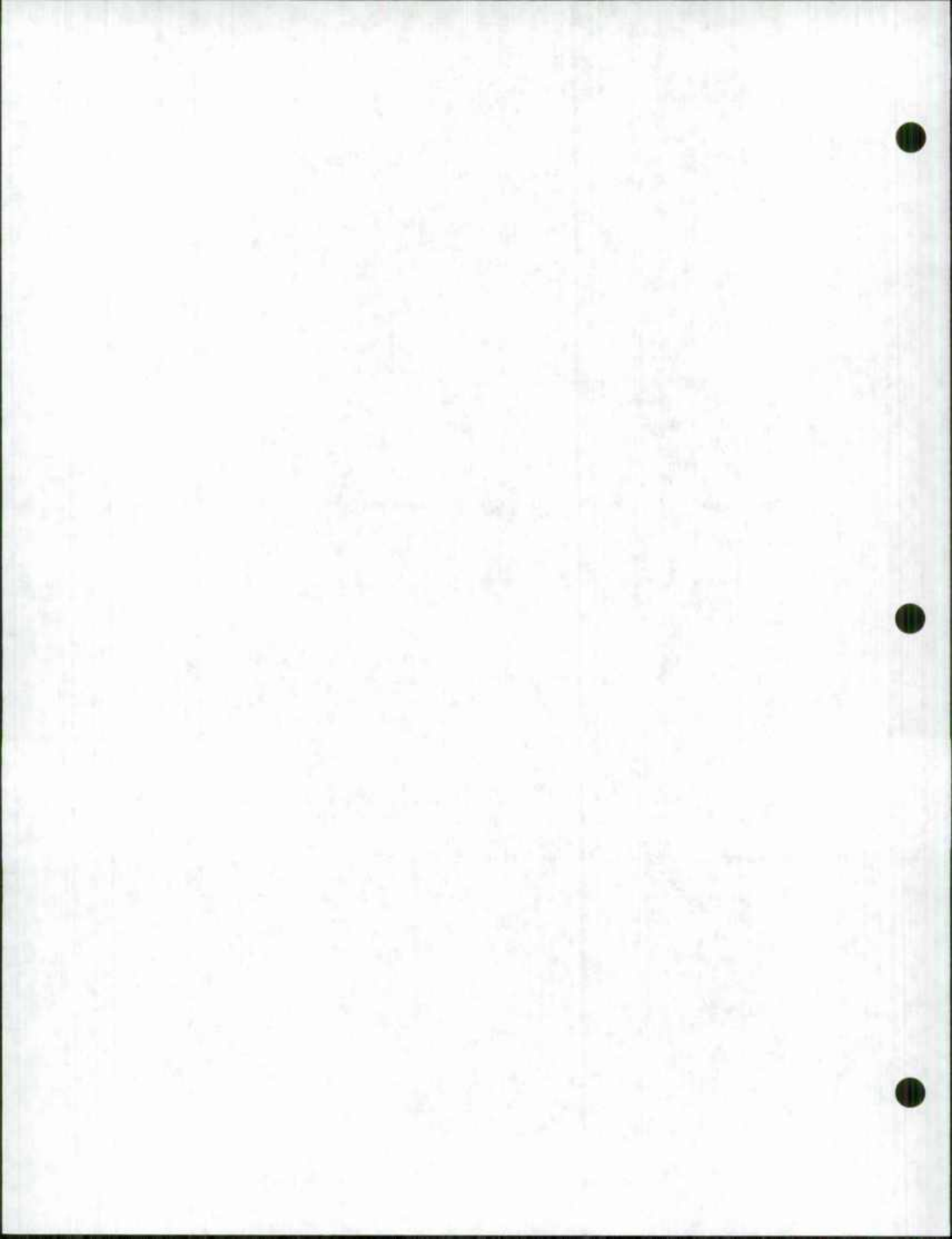
In reviewing this proposal, this office recommends that any disturbance above Mean High Water (MHW) and within the 100-foot Buffer associated with this project be mitigated at a 1:1 ratio. In addition, please ensure that the applicant coordinates with the Talbot County Planning Office to obtain a local shore erosion control permit and to implement a Buffer Management Plan for any required mitigation.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resources Planner

cc: Elisa DeFlaux, Talbot County Planning and Zoning



Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 9, 2008

Arnold Norden, Maryland Park Service
Maryland Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

**Re: Replacement of Damaged Catwalk
Rogues Harbor Boating Facility, Elk Neck State Park
P-026-071-101**

Dear Mr. Norden:

We are in receipt of the plans for the proposed replacement of two wood catwalks at the boat ramp facility located at Elk Neck State Park in Cecil County. The project entails removal and replacement in-kind of two sections of existing wood piers and piling, which are located over an existing concrete boat launch ramp, and the replacement of wood decking over an adjacent bulkhead. No disturbance to land is proposed.

Upon reviewing the regulations under COMAR 27.02.05, State Agency Actions Resulting in Development on State-Owned Lands, this office has determined that the above referenced project does not require Commission review. Therefore, we have no additional comments on the proposed plan.

Thank you again for the opportunity to review this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner

cc: 59-08

Tim McShane, Brudis & Associates

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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December 9, 2008

Ms. Betsy Vennell
Office of Planning and Zoning
Town of North East
PO Box 528
North East, Maryland 21901-0528

**Re: North East Isles Buffer Management Plan
Lots 98, 99, 100**

Dear Ms. Vennell:

This office has received a copy of the revised Buffer Management Plan (BMP) for the above-referenced project. The applicant has proposed to construct three houses, three walkways to individual piers, and upgrades to an existing road for a previously approved subdivision. The site is 2.35 acres in size and is designated Limited Development Area (LDA). Total proposed lot coverage is 0.063 acres; all lots are proposing less than 15% lot coverage. Total forested area onsite is 1.29 acres (54.9%); the applicant proposes to remove 26 trees. It is our understanding that a portion of Buffer mitigation (13,055 square feet) will either be planted within the Town limits at various locations determined by Town staff, or a fee-in-lieu will be paid into the Town's planting fund.

We understand that the applicant has submitted this BMP to us for review and approval. While we are happy to provide comments on the plan to the Town, we note that the Town ultimately has the approval authority for this plan.

Based on our review of this plan, it appears that several of the comments in my October 21, 2008 letter have not been addressed. Below are those comments, as well as additional comments based upon my review of this Buffer Management Plan:

1. It appears that the "On-site Tree Plantings" table is inaccurate. For example, the table states that 40 small trees will be planted in Area A, and 12 small trees will be planted in Area B. However, the BMP reveals that only 36 small trees are proposed within Area A, and 13 are proposed within Area B. We recommend that the applicant revise the BMP to correct this matter.

2. Please have the applicant provide in the planting notes section the period of time when the applicant will install the plantings (e.g. – between March and May).
3. Please have the applicant revise site note #2, found on Sheet E01, from “All decks should be constructed to remain pervious, with spaces between boards...” to “All decks should be constructed to remain pervious, with gaps between boards...”
4. Please have the applicant forward a copy of the MDE permit for all three piers to this office once it is received.
5. Please change all references of “impervious surface” to “lot coverage,” as applicants must now meet 15% lot coverage restrictions, as found in Ch. 119, 2008 Laws of Maryland at 765. Lot Coverage includes the area of the lot that is occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material. Lot coverage does not include a fence or wall that is less than one foot in width that has not been constructed with a footer, a walkway in the Buffer or expanded Buffer (including a stairway), that provides direct access to a community or private pier, a wood mulch pathway, or a deck with gaps to allow water to pass freely.
6. We recommend that the line, “Violators are subject to fines imposed by the Town of North East Critical Area Program” be added to the proposed Buffer signs.

Thank you again for providing the opportunity to review this Buffer Management Plan. Provided that the above mentioned revisions are made, further review of this plan is not required by this office.

If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: NE 424-06

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

December 9, 2008

Mr. Richard Ayella
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard, Suite 430
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Talbot County

Dear Mr. Ayella:

I am writing to provide comments on the following project located in Prince George's County:

200060664/00-WP-1058: Federal Highway Administration

On the Potomac River, immediately south of the Woodrow Wilson Bridge, the Federal Highway Administration (FHA) proposes to leave in place two 290-foot long by 10-foot wide construction piers and a timber construction access bulkhead that encompasses 0.33 acres of private tidal open waters. These piers were originally constructed for access to construct the Wilson Bridge. Additionally, the applicant proposes to emplace 550 linear feet of stone revetment extending a maximum of 23 feet channelward of the existing bulkhead. The purpose of the project is to provide recreational amenities and access to the Potomac River for the general public.

The constructing staging area was reviewed as a State Highway Administration (SHA) project by the Critical Area Commission on June 6, 2001. The project was approved with several conditions, including the following:

- All structures and associated facilities, including gravel, sediment and erosion control measures, stormwater measures, *and the proposed bulkhead and barge*, must be removed from the site, and the site shall be restored to its pre-construction conditions at the conclusion of use by the State Highway Administration and its contractors.

Since the applicant proposes to maintain the existing bulkhead and piers, the applicant must come before the Critical Area Commission to request that the aforementioned condition be lifted. Please have the applicant contact us to discuss this process.

Thank you for the opportunity to provide comments on the referenced project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nick Kelly". The signature is fluid and cursive, with the first name "Nick" and last name "Kelly" clearly distinguishable.

Nick Kelly

Natural Resources Planner

cc: Melinda Adams, Potomac Crossing Consultants

41-98

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

December 9, 2008

Deborah A. Renshaw
Zoning Inspector
Town of St. Michaels
300 Mill Street
P.O. Box 206
St. Michaels, MD 21663

Re: Ordinance 357 – Amendments to Approved Growth Allocation

Dear Ms. Renshaw:

The purpose of this letter is to provide an update regarding the Commission's processing of the text amendment to the Town of St. Michaels Critical Area Program. The text change proposes procedures for lot consolidation and reconfiguration in order to bring certain lands into conformance with the Critical Area Law and the Town's Critical Area Program to the extent possible, as required by the Critical Area Criteria and Chapter 119 of the 2008 Laws of Maryland. On December 4, 2008, Chair McHale determined that the proposed text amendment will be processed as a refinement to the Town of St. Michaels Critical Area Program.

The proposed text amendment has been scheduled for review at the January 7, 2009 Critical Area Commission meeting in Crownsville. I will forward both a copy of the meeting agenda as well as a copy of my staff report as soon as they are available. If you have any questions, feel free to contact me at (410) 260-3483. Thank you for your help.

Sincerely,

Nick Kelly
Natural Resource Planner

cc: SM 374-08
file

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
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December 11, 2008

Theresa Dent
Environmental Planning Section
Countywide Planning Division
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: **Mullen Site Plan/Conservation Plan - REVISED
CP-08005**

Dear Ms. Dent:

Thank you for providing information on the above-referenced conservation plan. The applicant is proposing to construct additions to an existing two-story house. The property is 10,000 square feet in size and is designated Limited Development Area (LDA). Total existing impervious surface is 1,487 square feet (14.9%). The applicant proposes to increase impervious surface cover by 240 square feet to 1,727 square feet (17.3%). Total proposed lot coverage will be 3,477 square feet (34.7%), and total existing forest coverage is 840 square feet (8.4%).

Based on the information provided, we have the following comments:

1. It is our understanding that this development plan was submitted prior to October 1, 2008. Ch. 119, 2008 Laws of Maryland at 765 states that development projects who file an initial application by October 1, 2008 may proceed in accordance with impervious surface limits used by the local government prior to the new legislation requiring lot coverage limits, provided that the development plan is approved by July 1, 2010. Projects that meet these deadlines must submit a detailed lot coverage plan, drawn to scale, showing the amounts of impervious surface area, partially pervious surface area, and developed pervious surface area for the project. In addition, we recommend that the applicant include a breakdown of impervious surface area by structure onsite (dwelling unit, shed, walkway, driveway, etc.). The detailed lot coverage plan must be approved by the local government and maintained in the local jurisdiction's files. Such plans may be modified in accordance with formally adopted local policies or procedures; however, the

TTY for the Deaf

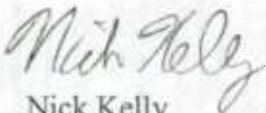
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

amounts of impervious surface, partially pervious, and developed pervious areas cannot be increased. Reductions in these areas are permitted.

2. Please inform that the applicant that, should the conservation plan not be approved by July 1, 2010, lot coverage restrictions will apply. Lot Coverage includes the area of the lot that is occupied by a structure, accessory structure, parking area, *driveway*, walkway, or roadway; or covered with *gravel*, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material. Grandfathered lots between 8,000 and 21,780 square feet are limited to 31.25% lot coverage. The applicant may not increase lot coverage beyond that limit without a variance, which this office would not support.
3. Please have the applicant provide a revised site plan that more clearly delineates the lot lines for Lots 19, 20, 21, and 22.

Thank you for the opportunity to provide comments. Please provide this office a revised Conservation Plan that addresses the above comments. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: PG 664-08

CJ Lammers, M-NCPPC – Planning Department

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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1804 West Street, Suite 100, Annapolis, Maryland 21401

(410) 260-3460 Fax: (410) 974-5338

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December 15, 2008

Theresa Dent
Environmental Planning Section
Countywide Planning Division
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

**Re: Chalk Point Generating Station
Addition of Structure Associated with Flue Gas Desulfurization (FGD)**

Dear Ms. Dent:

Thank you for submitting the above referenced site plan for review and comment. The applicant is seeking to add structures associated with the Flue Gas Desulfurization Project, which is being conducted as part of air quality control upgrades. Chalk Point Generating Station lies partly within the Critical Area, of which 345 acres are designated as Resource Conservation Overlay (RCO) and 130 acres are designated as Intensely Developed Overlay (IDO). The proposed activity will occur within the boundaries of the IDO portion only, with some impacts proposed to the 100-foot Buffer. It is our understanding that all Buffer impacts will be over an existing railroad area, and that all new impervious surface related to this project will be located outside the Buffer.

Based upon our review of the plan, this office has determined that the project does not require a zoning variance pursuant to the Prince George's County Critical Area Program. Therefore, the applicant shall submit the Project to the County for review and approval pursuant to the County Program, as stated in Note 3 of the of the Memorandum of Understanding between the Critical Area Commission, Prince George's County, and the Potomac Electric Power Company (PEPCO).

In addition, we have the following comment:

- This project was first reviewed by Kate Schmidt in July, 2007, in which 10% phosphorus removal calculations were provided for an increase in impervious surface from 33.59 acres to 36.60 acres. Grass swales were provided as a Best Management Practice for the site, providing 17.52 pounds per year of phosphorus removal, which exceeded the removal requirement of 15.38 pounds per year. In reviewing the newly submitted plans, it appears that impervious surface will now increase from 33.59 acres to 42.13 acres, which will result in a pollutant removal requirement of 27.81 pounds per year. Therefore, the applicant is required to remove an additional 10.29 pounds of phosphorus per year. Please have the applicant submitted revised 10% worksheets to this office for review to ensure that the removal requirement is met.

Thank you for the opportunity to provide comments. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

A handwritten signature in cursive script that reads "Nick Kelly". The signature is written in dark ink and is positioned above the printed name.

Nick Kelly
Natural Resource Planner
cc: PG 326-07

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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(410) 260-3460 Fax: (410) 974-5338

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December 17, 2008

John Maholtz
Washington Suburban Sanitary Commission
14501 Sweitzer Lane
Laurel, MD 20707-5902

**Re: Broad Creek Pumping Station Emergency Generators
Planting Plan and Agreement**

Dear Mr. Maholtz:

Thank you for providing information on the above-referenced planting plan and agreement. As a condition of approval for this project, a planting plan was required to be submitted to Commission staff for review and approval. The plan shows that eight white pine trees will be planted to address 10% Phosphorus reduction requirements onsite. Planting will occur in October 2009.

Based on the information provided, the lone condition of approval for this project has been satisfied. Please contact this office when the planting has been completed. Also, should any changes to the site plan be proposed in the future, additional review and approval by the Commission will be required.

Thank you again for your help with this project. If you have any questions, please call me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resources Planner

cc: Paul Billingsley, Unit Coordinator – Environmental Programs
Mike McQuade, Whitman, Requardt & Associates
37-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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December 17, 2008

Duncan Stuart
City of Baltimore Planning Commission
Department of Planning
417 E. Fayette Street, 8th Floor
Baltimore, Maryland 21202-3416

**Re: Westport Waterfront - 10% Phosphorus Reduction Calculations and
Buffer Management Plan (BMP), Phase I**

Dear Mr. Stuart:

We are in receipt of revised 10% Phosphorus Reduction calculations as well as a Buffer Management Plan (BMP) for the above referenced project. The applicant is proposing to redevelop the existing site with residential and commercial buildings, streetscaping, parks, roadways, and alleys through two phases. The property is 44.11 acres in size and is designated Intensely Developed Area (IDA); Phase I will impact 22.83 acres, while Phase II will impact 21.28 acres. It is our understanding that only Phase I of this project is proposed for development at this time.

Currently, total lot coverage is 17.75 acres (83.4%); upon completion of the project, total lot coverage will increase to 18.38 acres (86.4%). The applicant proposes to meet 10% requirements on Phase I of the site through the use of dry swales, while a sand filter is also proposed to address 10% requirements for Phase II. In addition, the applicant will pay \$168,442.50 into the City's Offset fund for Phase I development and \$427,907.50 for Phase II, which is consistent with the City's Buffer offset rate of \$2.50 per square foot of site area developed with the Buffer (Baltimore City Critical Area Management Program §V.2).

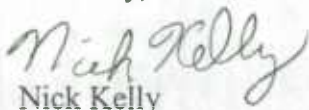
Based on the information provided, we have the following comments:

1. Based upon several discussions with the applicant, it is our understanding that the applicant may substitute the proposed sand filters onsite with green roof technology. In order to ensure that pollutant removal requirements are met over the entire site under this circumstance, the applicant must submit revised 10% worksheets for the entire site prior to the start construction if green roof technology will be utilized.

2. Commission staff has no major concerns with the applicant's proposed Buffer Management Plan. However, staff does have questions related to the species, density, and mix of vegetation proposed within certain portions of the Buffer. We recommend that the applicant contact this office to discuss these matters. Slight revisions to the BMP, as well as additional review of the plan, may be required. We understand that review of this plan can take place after the issuance of the grading permit. However, we recommend that any revisions be completed prior to the start of construction of structures onsite.
3. It is our understanding that a portion of the Phase II Buffer mitigation will be located on the adjacent Kloman Ballfield parcel, which is owned by the Mayor and City Council. The applicant plans to lease this property from City, although a lease has not been finalized at the time of this letter. Please inform the applicant that, should the lease not be granted, the applicant will be required to provide the remaining mitigation onsite or provide offsets that are consistent with the City's Critical Area Management Plan. Under this circumstance, a revised Buffer Management Plan for the site will be required for review by this office.
4. The applicant must provide provisions for maintenance, survival, monitoring, and replanting of the Buffer for a period of at least three years. The planting must be adequately bonded or otherwise ensured to provide a 90% survival rate at the end of the three-year period. Please have the applicant forward this information to our office for review.

Thank you again for providing information on this Buffer management and stormwater plan. If you have any questions, please call me at (410) 260-3483.

Sincerely,



Nick Kelly

Natural Resource Planner

cc: BA 689-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
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December 18, 2008

Gary Letteron
City of Baltimore Planning Commission
Department of Planning
417 E. Fayette Street, 8th Floor
Baltimore, Maryland 21202-3416

**Re: Key Highway Beautification Project
Consistency Report**

Dear Mr. Letteron:

Thank you for forwarding revised information regarding the above-referenced project to this office per the requirements of COMAR 27.02.02 - State and Local Agency Actions Resulting in Development of Local Significance on Private Lands or Lands Owned by Local Jurisdictions. The City proposes to add a vegetated median strip to Key Highway. The site is 0.6 acres in size and designated an Intensely Developed Area (IDA). After reviewing your consistency determination and the accompanying site plan, this office agrees that the project is consistent with the Baltimore City Critical Area Program for the reasons outlined below:

1. Overall lot coverage will decrease from 0.46 acres (76.7%) to 0.38 acres (63.3%).
2. Compliance with the 10% Rule Requirement is met by the reduction in impervious surface.
3. No forest clearing is proposed.
4. A total of 31 trees, as well as additional shrubs and plants, will be planted within the median area.
5. There are no impacts to the 100-foot Buffer.
6. Local stormwater management and sediment and erosion control permits will be received prior to the start of the construction.
7. No Habitat Protection Areas will be impacted.
8. No tidal or non-tidal wetlands will be impacted.

We have the following additional comment on this project:

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Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450



12/18/08 Gary Letteron
January 25, 2008
Page 2 of 2

- Prior to the start of construction, please submit to this office a copy of the local stormwater management and sediment and erosion control permits.

Thank you again for your cooperation and assistance with reviewing this project. If you have any questions, please telephone me at (410) 260-3478.

Sincerely,



Nick Kelly
Natural Resource Planner
cc: BA51-08

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

December 22, 2008

Ms. April Stehr
Maryland Department of the Environment
Wetlands & Waterways Program
1800 Washington Boulevard, Suite 430
Baltimore, MD 21230

RE: Comments on Applications for State Permits – Talbot County

Dear Ms. Stehr:

I am writing to provide comments on the following project located in Talbot County:

200863861/09-WL-0292: Scott Smallwood

In Bozman, along Leadenham Creek, the applicant proposes to fill, grade, and plant marsh vegetation along 194 feet of eroding shoreline, construct a low profile stone, sand containment sill emplaced within a maximum of 50 channelward of Mean High Water (MHW); and emplace 183 feet of low profile stone edging within a maximum of eight feet channelward of an eroding marsh edge. The purpose of the project is shore erosion control.

Based on the information provided, we have the following comments:

1. In general, this office supports marsh creation as a means of shore protection in areas where long-term sustainability is ensured. However, to provide better comments on the proposed project, and to ensure that the project complies with Critical Area Law and regulations, we ask that MDE require the applicant to provide additional information for Commission staff review prior to approving the proposed project. Commission staff is willing to review this information in the form of a Buffer Management Plan. If submitted as a Buffer Management Plan, the following should be included:
 - a. Current and proposed location of Mean High Water (MHW).
 - b. Any proposed changes to the 100-foot Buffer as a result of the change to MHW and/or the edge of tidal wetlands. Movement of the Buffer line could be problematic, particularly if a shift of the line places existing structures within the Buffer.
 - c. The areas of proposed tidal marsh creation and nontidal marsh creation.
 - d. The proposed plantings for the marsh creation project. In particular, the applicant must define whether the *spartina patens* will be considered as high tidal marsh or as nontidal marsh.

2. Any excavation above MHW and within the 100-foot Buffer that may require clearing should be mitigated at a 1:1 ratio.
3. We recommend the use of biolags in place of the proposed armor stone for the marsh creation, if possible. However, if MDE determines that a stone sill is necessary for sustainability of the marsh, then this office will defer to your determination.
4. The proposed project is located in a waterfowl concentration area. Therefore, time of year restrictions for shoreline work will apply that between November 15 and March 1.
5. Please ensure that the applicant coordinates with the Talbot County Planning Office to obtain a local shore erosion control permit and to implement a Buffer Management Plan for the required mitigation.

Thank you for the opportunity to provide comments on the referenced project. For consistency, we recommend that the applicant provide the above required materials to Talbot County at the time it is provided to Commission staff. If you have any questions, please call me at (410) 260-3483.

Sincerely,


Nick Kelly

Natural Resources Planner

cc: Elisa DeFlaux, Talbot County Planning and Zoning

MARYLAND DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION
1800 WASHINGTON BOULEVARD
BALTIMORE, MARYLAND 21230

Notice Of Applications Received For State Permits

December 15, 2008

The Water Management Administration has received the applications listed below. A preliminary review has indicated that the listed projects may be subject to the opportunity for a public hearing once the application is substantially complete. Projects may be significantly altered during the review process. The applications and related information are available for inspection and copying. You may also request written notice of any hearing opportunity by having your name placed on the interested persons list for each project in which you are interested. To inspect the file or to have your name placed on the interested persons list, contact the assigned division at the telephone number indicated below **no later than January 14, 2009.**

NONTIDAL WETLANDS DIVISION - (410)537-3768

ANNE ARUNDEL COUNTY

200864596/08-NT-0384: TREVILLIAN PROPERTIES LLC has applied to construct a single family home. The work will result in the permanent loss of 5,638 square feet of forested nontidal wetland and 377 square feet of nontidal wetland buffer. The site is within the Severn Run watershed, a Use IV waterway. The applicant currently proposes payment into the Nontidal Wetlands and Waterways Compensation Fund in lieu of Mitigation at a 2:1 ratio. For additional information contact Cynthia Nethen at 410-537-3819. Refer to tracking number 200864596. The project is located on lot 32 on North Drive in Severn.

200864861/08-NT-0407: HEFFNER & WEBER has applied to extend Corporate Center Drive to the intersection of Stoney Run Rd. and New Ridge Rd. The project will result in impacts to a total of 1,742 square feet of expanded nontidal wetlands buffer, and 287 linear feet of a tributary of Stoney Run. These resources drain to the Stoney Run Nontidal Wetlands of Special State Concern. Proposed work consists of roadway and sidewalk construction, including the construction of a new 48-inch twin culvert, and removal of existing roadway. Mitigation for project impacts has been satisfied by payment into a fund for stream restoration at Piney Run, within the Patapsco watershed. For additional information, please contact Danielle Lange at 410-462-9127. The project is located in Hanover, in Anne Arundel County.

RECEIVED

DEC 17 2008

CRITICAL AREA COMMISSION

GARRETT COUNTY

200861537/08-NT-3140: GARRETT CO SANITARY DISTRICT INC has applied to construct new waterlines to connect four new wells and existing spring to the water system serving the Town of Mountain Lake Park. Project includes construction of a new access road and replacement of several culverts in existing access road. The project will permanently impact 1500 square feet of shrub/forested wetland and 22,039 square feet of wetland buffer. The project will temporarily impact 685 square feet of shrub/forested wetland and 2,194 square feet of wetland buffer. The project is proposed on unnamed tributaries to the Little Youghiogheny River (Use III). The applicant has proposed payment into the Nontidal Wetlands Compensation Fund to satisfy required mitigation. If you have any questions concerning this project please contact Matthew Radcliffe at 301-689-1492. The project is located at the end of Landon's Dam Road in Garrett County. 200861537

TIDAL WETLANDS DIVISION - (410)537-3837

ANNE ARUNDEL COUNTY

200864372/09-WL-0407: WILLIAM N DAISEY III has applied to emplace and repair 104 feet of stone revetment within a maximum of 15 feet channelward of the mean high water line. For more information contact Justin Bereznak at 410-537-3782 or jbereznak@mde.state.md.us. The project is located on the West River at 1601 Hunters Lane, Shady Side, Anne Arundel County.

KENT COUNTY

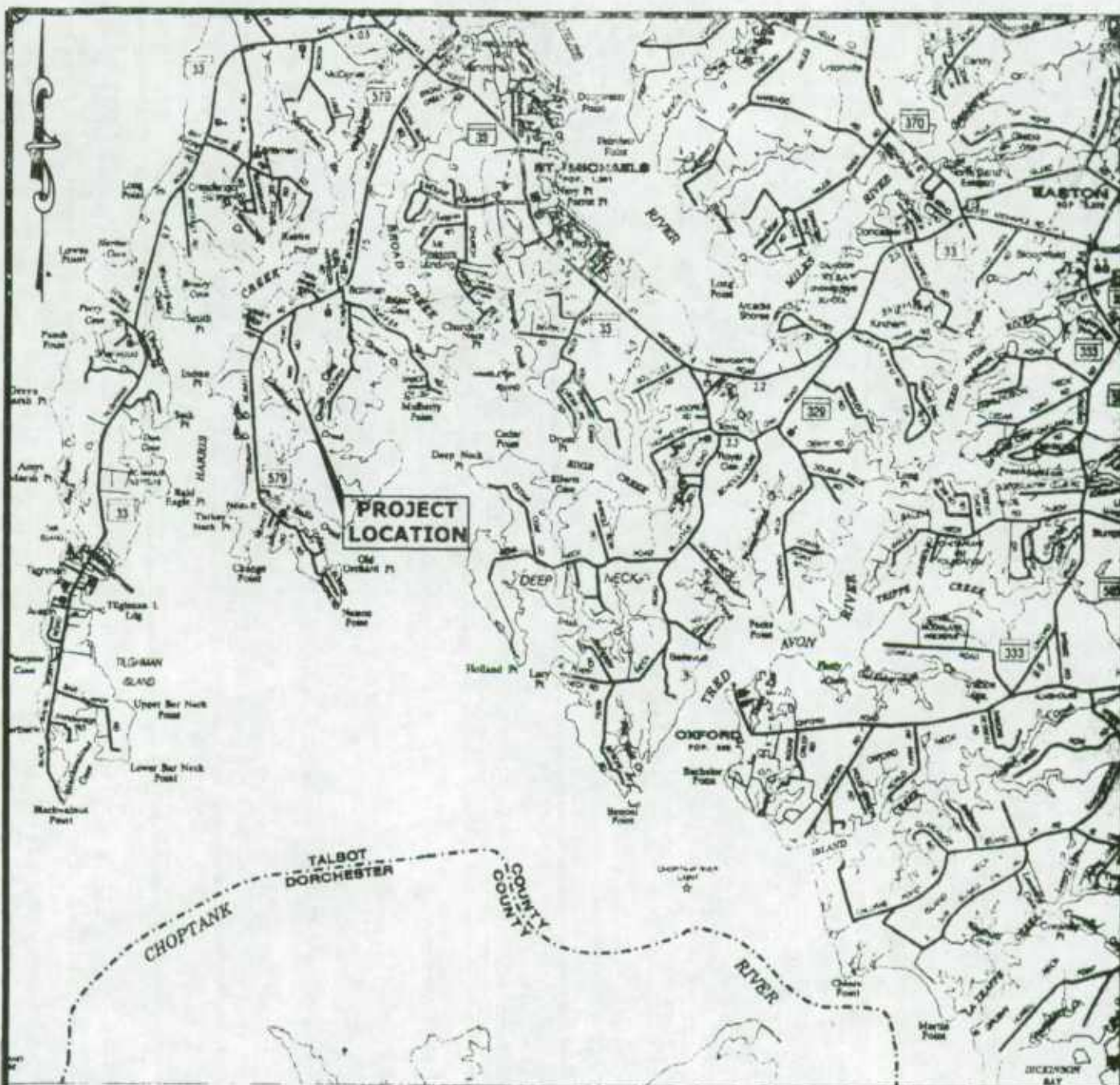
200864891/09-WL-0552: WASHINGTON COLLEGE has applied to mechanically maintenance dredge a 65,000 square feet area to the 4 foot depth at mean low water and transport 5,000 cubic yards of dredged material to the approved upland disposal site known as Sheets Pit in Kent County. The purpose of the project is to allow storage and use of college watercraft in this location. For information contact Robert Rushlow at 410-537-4023 or rrushlow@mde.state.md.us. The project is located located in the Chester River off Wilmer Park south of Cross Street, Chestertown, Kent County.

TALBOT COUNTY

200863861/09-WL-0292: SCOTT SMALLWOOD has applied to fill, grade, and plant marsh vegetation along 194 feet of eroding shoreline; construct a stone, sand containment sill emplaced within a maximum of 50 feet channelward of the mean high water line ; emplace 183 feet of low profile stone edging within a maximum of 8 feet channelward of an eroding marsh edge. The purpose of this project is shore erosion control. For more information contact April Stehr at 410-537-3789 or astehr@mde.state.md.us. The project is located in Leadenham Creek at 7414 Mayport Road, Bozman in Talbot County.

WATER SUPPLY PROGRAM - (410)537-3590

10/11/08 10:00 1072
6/6/08
1043



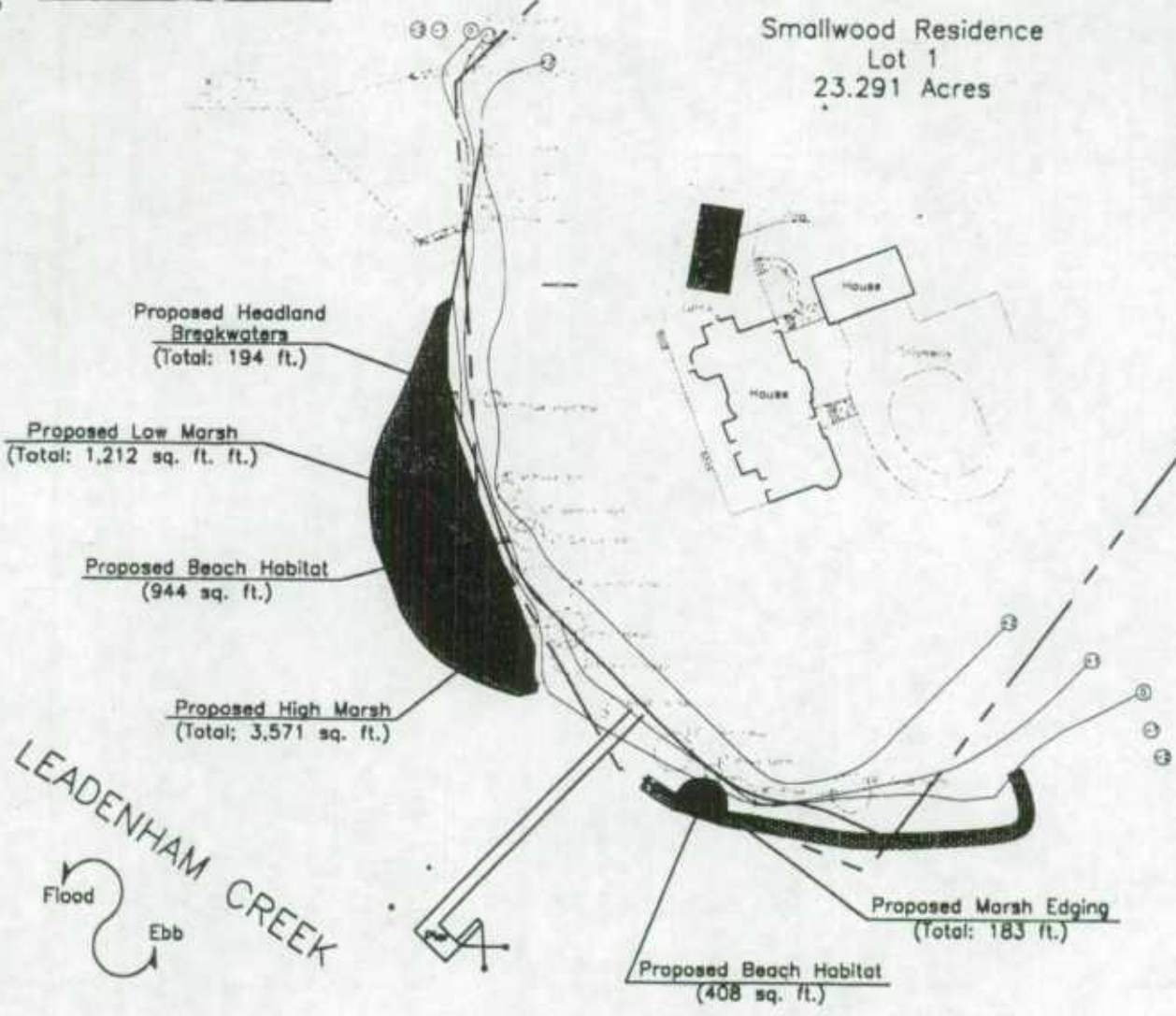
NOTES:

- 1) Base plan obtained from map entitled WELCOME TO MARYLAND MAP; EASTON, CAMBRIDGE, ST. MICHAELS AND TALBOT COUNTY WITH CAROLINE COUNTY AND DORCHESTER COUNTY.
- 2) Project location determined by Sustainable Science LLC and is approximate.

<p>VICINITY MAP</p>	<p>SUSTAINABLE SCIENCE LLC Ecological Engineering Services 410 S. Second Street Denton, Maryland 21629 Phone: (410) 924-4316 www.sustainable-science.com</p>	<p>SCALE: 1 inch = 2 miles</p>
<p>Smallwood Residence</p>		<p>DRAWN BY: A. McCullough</p>
<p>7414 Mayport Road</p>		<p>DATE: June 6th, 2008</p>
<p>Trappe, Maryland 21612</p>		<p>LAST REVISION: NONE</p>
<p>Talbot County, Maryland</p>		<p>SS PROJECT NO: 08004</p>
		<p>SHEET NUMBER 1 OF 3</p>

N. 111-11
MDE# 07-WL-029
6/6/08
2 of 3

Contour elevations based upon biological benchmark survey of mean high water assumed to be elevation 0.0 feet.

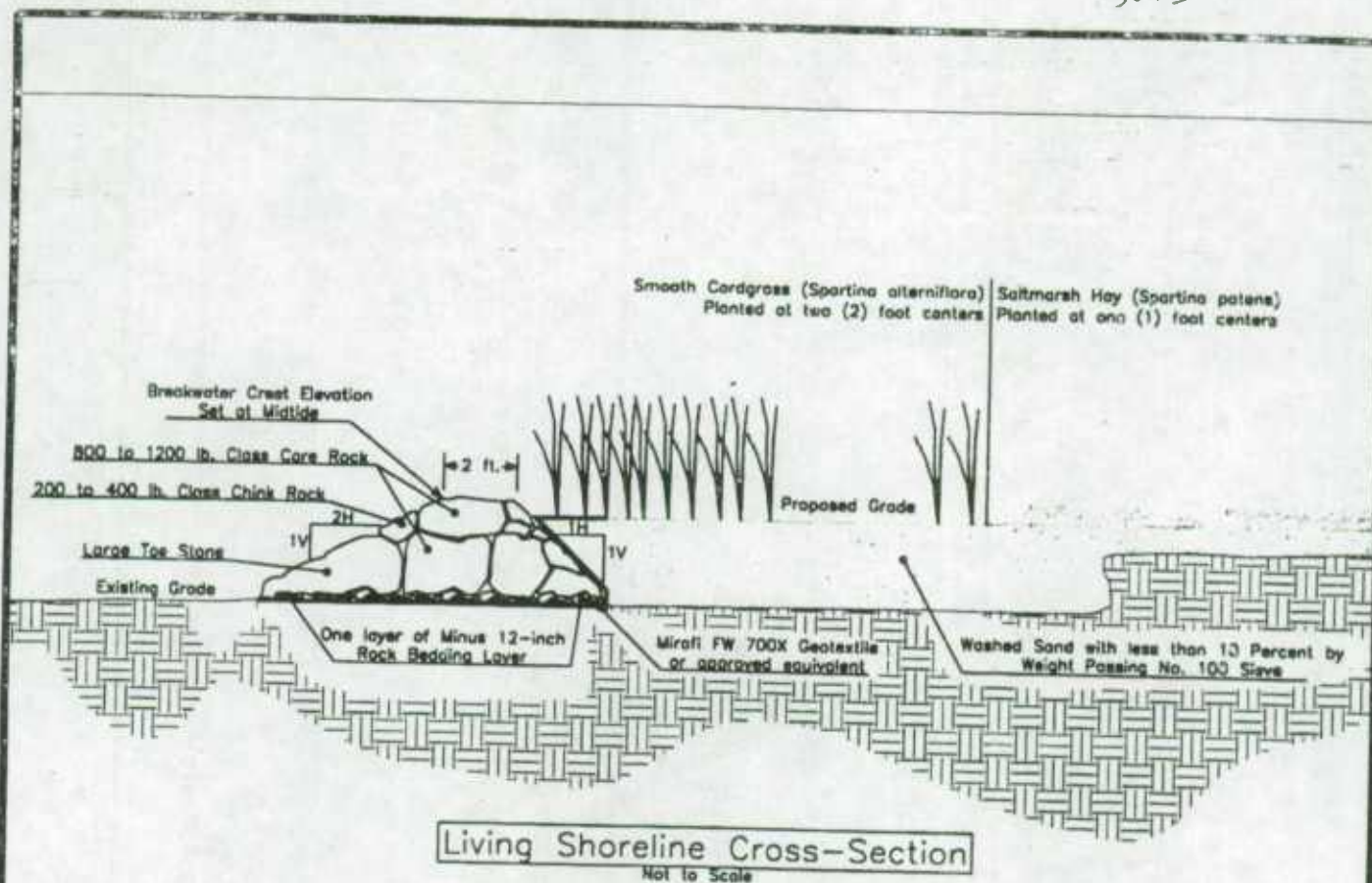


NOTES:

- 1) Base plan survey performed by Sustainable Science LLC on April 18th, 2008.
- 2) Proposed living shoreline concept designed by Sustainable Science LLC.

<p>PROPOSED LIVING SHORELINE PLAN</p> <p>Smallwood Residence 7414 Mayport Road Bozman, Maryland 21612 Talbot County, Maryland</p>		<p>SUSTAINABLE SCIENCE LLC Ecological Engineering Services 410 S. Second Street Denton, Maryland 21629 Phone: (+1) 224-4316 www.sustainable-science.com</p>		<p>SCALE: 1 inch = 80 feet DRAWN BY: A. McCullough DATE: June 8th, 2008 LAST REVISION: NONE SS PROJECT NO: 08004</p> <p>SHEET NUMBER 2 OF 3</p>	
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KITMST 00000-00000
 MDE# 09-03L-0292
 6/6/08
 3 of 3



Living Shoreline Low Marsh (2,351 square feet)

Botanical Name	Common Name	Size	Plant Spacing	Quantity	Planting Elevation	Planting Period
<i>Spartina alterniflora</i>	Smooth Cordgrass	2-inch plug	1.5 ft. OC	1,050	-0.5 to 0.0 MHW	April 15th to June 15th

Living Shoreline High Marsh (3,919 square feet)

Botanical Name	Common Name	Size	Plant Spacing	Quantity	Planting Elevation	Planting Period
<i>Spartina patens</i>	Saltmarsh Hay	2-inch plug	1 ft. OC	3,920	0.0 to 1.0 MHW	April 15th to June 15th

NOTES:

- 1) Construction details prepared by Sustainable Science LLC and are to be used for permitting purposes only.

PROPOSED LIVING SHORELINE DETAILS

Smallwood Residence
 7414 Mayport Road
 Bozman, Maryland 21612
 Talbot County, Maryland

SUSTAINABLE SCIENCE LLC
 Ecological Engineering Services
 #105 Second Street
 Denton, Maryland 21629
 Phone: (+1) 924-7316
 www.sustainable-science.com

SCALE:	As Shown
DRAWN BY:	A. McCullough
DATE:	June 6th, 2008
LAST REVISION:	NONE
SS PROJECT NO:	08004
SHEET NUMBER	3 OF 3

Permit Application Screening Form

Tracking No:
Applicant:
County: ADC Map: Ed:
Project Type:
Waterbody:
Fed. Nav. Channel? Within 150' of channel?

Location

State Plane 83 Meters: N E
Latitude/Longitude 83: N

DOQQ:

Critical Area/1000' Buffer?

100 yr Floodplain Floodway?

Reference Information

FEMA FIRM Index: Taxmap:
Watershed:
Tidal Watershed Boundary Map #: Aerial Photo #:

Reference Information

NWI?
DNR Wetlands?
MHT?
Sens/Endg Sp?
WSSC? SAV?

Screened By:

Date Screened:

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

December 22, 2008

Ms. Betsy Vennell
Office of Planning and Zoning
Town of North East
PO Box 528
North East, Maryland 21901-0528

**Re: North East Isles Buffer Management Plan
Lots 98, 99, 100**

Dear Ms. Vennell:

This office has received a copy of the revised Buffer Management Plan (BMP) for the above-referenced project. The applicant has proposed to construct three houses, three walkways to individual piers, and upgrades to an existing road for a previously approved subdivision. The site is 2.35 acres in size and is designated Limited Development Area (LDA). Total proposed lot coverage is 0.063 acres; all lots are proposing less than 15% lot coverage. Total forested area onsite is 1.29 acres (54.9%); the applicant proposes to remove 26 trees. It is our understanding that a portion of Buffer mitigation (13,055 square feet) will either be planted within the Town limits at various locations determined by Town staff, or a fee-in-lieu will be paid into the Town's planting fund.

Based on our review of this plan, we have no additional comments.

Thank you again for providing the opportunity to review this Buffer Management Plan. If you have any questions, please contact me at (410) 260-3483.

Sincerely,

Nick Kelly
Natural Resource Planner
cc: NE 424-06

